

Act No. 348
Public Acts of 2000
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**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

Introduced by Rep. Richner

ENROLLED HOUSE BILL No. 5228

AN ACT to amend 1962 PA 174, entitled "An act to enact the uniform commercial code, relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, leases, and secured transactions, including certain sales of accounts, chattel paper and contract rights; to provide for public notice to third parties in certain circumstances; to regulate procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; to make an appropriation; to provide penalties; and to repeal certain acts and parts of acts," by amending sections 1105, 1201, 2103, 2210, 2326, 2502, 2716, 2A103, 2A303, 2A307, 2A309, 2A525, 4210, 7503, 8103, 8106, 8110, 8301, 8302, 8510, 9102, 9103, 9104, 9105, 9106, 9107, 9108, 9109, 9110, 9201, 9202, 9203, 9204, 9205, 9206, 9207, 9208, 9301, 9302, 9303, 9304, 9305, 9306, 9307, 9308, 9309, 9310, 9311, 9312, 9313, 9314, 9315, 9316, 9317, 9318, 9401, 9402, 9403, 9404, 9405, 9406, 9407, 9408, 9409, 9501, 9502, 9503, 9504, 9505, 9506, and 9507 (MCL 440.1105, 440.1201, 440.2103, 440.2210, 440.2326, 440.2502, 440.2716, 440.2803, 440.2903, 440.2907, 440.2909, 440.2975, 440.4210, 440.7503, 440.8103, 440.8106, 440.8110, 440.8301, 440.8302, 440.8510, 440.9102, 440.9103, 440.9104, 440.9105, 440.9106, 440.9107, 440.9108, 440.9109, 440.9110, 440.9201, 440.9202, 440.9203, 440.9204, 440.9205, 440.9206, 440.9207, 440.9208, 440.9301, 440.9302, 440.9303, 440.9304, 440.9305, 440.9306, 440.9307, 440.9308, 440.9309, 440.9310, 440.9311, 440.9312, 440.9313, 440.9314, 440.9315, 440.9316, 440.9317, 440.9318, 440.9401, 440.9402, 440.9403, 440.9404, 440.9405, 440.9406, 440.9407, 440.9408, 440.9409, 440.9501, 440.9502, 440.9503, 440.9504, 440.9505, 440.9506, and 440.9507), sections 1105, 9203, and 9402 as amended by 1998 PA 489, section 1201 as amended and sections 2A103, 2A303, 2A307, 2A309, and 2A525 as added by 1992 PA 101, section 2326 as amended by 1982 PA 397, section 4210 as amended by 1993 PA 130, sections 8103, 8106, 8301, 8302, 9301, 9302, 9303, 9306, 9309, and 9312 as amended and sections 8110 and 8510 as added by 1998 PA 278, sections 9103, 9104, 9105, 9106, 9304, and 9305 as amended by 1998 PA 488, section 9307 as amended by 1985 PA 199, section 9313 as amended by 1980 PA 53, section 9401 as amended by 1990 PA 288, sections 9403 and 9404 as amended by 1992 PA 186, sections 9405 and 9407 as amended by 1988 PA 130, and section 9406 as amended by 1989 PA 216, and by adding sections 5118, 9209, 9210, 9319, 9320, 9321, 9322, 9323, 9324, 9325, 9326, 9327, 9328, 9329, 9330, 9331, 9332, 9333, 9334, 9335, 9336, 9337, 9338, 9339, 9340, 9341, 9342, 9508, 9509, 9510, 9511, 9512, 9513, 9514, 9515, 9516, 9517, 9518, 9519, 9520, 9521, 9522, 9523, 9524, 9525, 9526, 9527, 9601, 9602, 9603, 9604, 9605, 9606, 9607, 9608, 9609, 9610, 9611, 9612, 9613, 9614, 9615, 9616, 9617, 9618, 9619, 9620, 9621, 9622, 9623, 9624, 9625, 9626, 9627, 9628, 9701, 9702, 9703, 9704, 9705, 9706, 9707, 9708, and 9709; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 1105. (1) Except as provided in this section, if a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of the other state or nation shall govern their rights and duties. Failing agreement this act applies to transactions bearing an appropriate relation to this state.

(2) If 1 of the following provisions of this act specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) specified:

Rights of creditors against sold goods.	Section 2402.
Applicability of the article on leases.	Sections 2A105 and 2A106.
Applicability of the article on bank deposits and collections.	Section 4102.
Governing law in the article on funds transfers.	Section 4A507.
Letters of credit.	Section 5116.
Applicability of the article on investment securities.	Section 8110.
Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens.	Sections 9301 through 9307.

Sec. 1201. Subject to additional definitions contained in the subsequent articles of this act which are applicable to specific articles or parts of this act, and unless the context otherwise requires, in this act:

(1) “Action” in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) “Aggrieved party” means a party entitled to resort to a remedy.

(3) “Agreement” means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this act (sections 1205 and 2208). Whether an agreement has legal consequences is determined by the provisions of this act, if applicable; otherwise by the law of contracts (section 1103). (Compare “Contract”).

(4) “Bank” means any person engaged in the business of banking.

(5) “Bearer” means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) “Bill of lading” means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. “Airbill” means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) “Branch” includes a separately incorporated foreign branch of a bank.

(8) “Burden of establishing a fact” means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) “Buyer in ordinary course of business” means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the good, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller’s own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under article 2 may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business.

(10) “Conspicuous”: A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: non-negotiable bill of lading) is conspicuous. Language in the body of a form is “conspicuous” if it is in larger or other contrasting type or color. But in a telegram any stated term is “conspicuous”. Whether a term or clause is “conspicuous” or not is for decision by the court.

(11) “Contract” means the total legal obligation which results from the parties’ agreement as affected by this act and any other applicable rules of law. (Compare “Agreement”).

(12) “Creditor” includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor’s or assignor’s estate.

(13) “Defendant” includes a person in the position of defendant in a cross action or counterclaim.

(14) “Delivery” with respect to instruments, documents of title, chattel paper, or certificated securities means voluntary transfer of possession.

(15) “Document of title” includes bill of lading, dock warrant, dock receipt, warehouse receipt, or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and

purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

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

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

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

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

(20) "Holder", with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. Holder, with respect to a document of title, means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

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

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

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

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

(25) A person has "notice" of a fact when he or she has actual knowledge of it; he or she has received a notice or notification of it; or from all the facts and circumstances known to him or her at the time in question he or she has reason to know that it exists. A person "knows" or has "knowledge" of a fact when he or she has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this act.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when 1 of the following occurs:

(a) It comes to his or her attention.

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him or her as the place for receipt of such communications.

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

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

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

(30) "Person" includes an individual or an organization (see section 1102).

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

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

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

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

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

(36) "Rights" includes remedies.

(37) “Security interest” means an interest in personal property or fixtures which secures payment or performance of an obligation. The term also includes any interest of a consignor and a buyer of an account, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to article 9. The special property interest of a buyer of goods on identification of those goods to a contract for sale under section 2401 is not a “security interest”, but a buyer may also acquire a “security interest” by complying with article 9. Except as otherwise provided in section 2505, the right of a seller or lessor of goods under article 2 or 2A to retain or acquire possession of the goods is not a “security interest”, but a seller or lessor may also acquire a “security interest” by complying with article 9. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 2401) is limited in effect to a reservation of a “security interest”. Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and any of the following:

- (a) The original term of the lease is equal to or greater than the remaining economic life of the goods.
- (b) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods.
- (c) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.
- (d) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a security interest merely because it provides any of the following:

- (a) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into.
- (b) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods.
- (c) The lessee has an option to renew the lease or to become the owner of the goods.
- (d) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed.
- (e) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

As used in this subsection:

(a) Additional consideration is not nominal if when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee’s reasonably predictable cost of performing under the lease agreement if the option is not exercised.

(b) “Present value” means the amount as of a date certain of 1 or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(c) “Reasonably predictable” and “remaining economic life of the goods” are to be determined with reference to the facts and circumstances at the time the transaction is entered into.

(38) “Send” in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived, if properly sent, has the effect of a proper sending.

(39) “Signed” includes any symbol executed or adopted by a party with present intention to authenticate a writing, including a carbon copy of his or her signature.

(40) “Surety” includes guarantor.

(41) “Telegram” includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) “Term” means that portion of an agreement which relates to a particular matter.

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

(44) “Value”. Except as otherwise provided with respect to negotiable instruments and bank collections (sections 3303, 4208, and 4209) a person gives “value” for rights if the person acquires them:

(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

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

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

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

(45) “Warehouse receipt” means a receipt issued by a person engaged in the business of storing goods for hire.

(46) “Written” or “writing” includes printing, typewriting, or any other intentional reduction to tangible form.

Sec. 2103. (1) In this article unless the context otherwise requires:

(a) “Buyer” means a person who buys or contracts to buy goods.

(b) “Good faith” in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

(c) “Receipt” of goods means taking physical possession of them.

(d) “Seller” means a person who sells or contracts to sell goods.

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

“Acceptance”.	Section 2606.
“Banker’s credit”.	Section 2325.
“Between merchants”.	Section 2104.
“Cancellation”.	Section 2106(4).
“Commercial unit”.	Section 2105.
“Confirmed credit”.	Section 2325.
“Conforming to contract”.	Section 2106.
“Contract for sale”.	Section 2106.
“Cover”.	Section 2712.
“Entrusting”.	Section 2403.
“Financing agency”.	Section 2104.
“Future goods”.	Section 2105.
“Goods”.	Section 2105.
“Identification”.	Section 2501.
“Installment contract”.	Section 2612.
“Letter of credit”.	Section 2325.
“Lot”.	Section 2105.
“Merchant”.	Section 2104.
“Overseas”.	Section 2323.
“Person in position of seller”.	Section 2707.
“Present sale”.	Section 2106.
“Sale”.	Section 2106.
“Sale on approval”.	Section 2326.
“Sale or return”.	Section 2326.
“Termination”.	Section 2106.

(3) The following definitions in other articles apply to this article:

“Check”.	Section 3104.
“Consignee”.	Section 7102.
“Consignor”.	Section 7102.
“Consumer goods”.	Section 9102.
“Dishonor”.	Section 3502.
“Draft”.	Section 3104.

(4) In addition article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Sec. 2210. (1) A party may perform that party’s duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having that other party’s original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on the other party by that other party's contract, or impair materially the other party's chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his or her entire obligation can be assigned despite agreement otherwise.

(3) The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but (i) the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer, and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4) Unless the circumstances indicate the contrary, a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(5) An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by the assignee to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(6) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to that other party's rights against the assignor demand assurances from the assignee (section 2609).

Sec. 2326. (1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is:

- (a) A "sale on approval" if the goods are delivered primarily for use, and
- (b) A "sale or return" if the goods are delivered primarily for resale.

(2) Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(3) Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this article (section 2201) and as contradicting the sale aspect of the contract within the provisions of this article on parol or extrinsic evidence (section 2202).

(4) Whenever a person delivers or causes to be delivered a work of fine art to an art dealer for the purpose of sale, or exhibition and sale, to the public on a commission, the work of fine art is not subject to the claims of the art dealer's creditors. For the purposes of this subsection, the terms "art dealer", "commission", and "fine art" have the meanings ascribed to them in section 1 of 1979 PA 90, MCL 442.311.

Sec. 2502. (1) Subject to subsections (2) and (3) and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which he or she has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if 1 of the following occurs:

(a) In the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract.

(b) In all cases, the seller becomes insolvent within 10 days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under subsection (1)(a) vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

(3) If the identification creating his or her special property has been made by the buyer he or she acquires the right to recover the goods only if they conform to the contract for sale.

Sec. 2716. (1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin or recovery in a claim and delivery proceeding for goods identified to the contract if after reasonable effort he or she is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the

security interest in them has been made or tendered. In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

Sec. 2A103. (1) In this article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

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

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

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

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

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

(g) "Finance lease" means a lease with respect to which all of the following apply:

(i) The lessor does not select, manufacture, or supply the goods.

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

(iii) One of the following occurs:

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

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

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

(D) If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing of the following:

(I) The identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person.

(II) The lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods.

(III) The lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (section 2A309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

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

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

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

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

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

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

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

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

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

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

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

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

(u) "Present value" means the amount as of a date certain of 1 or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

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

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

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

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

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

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

"Accessions".	Section 2A310(1).
"Construction mortgage".	Section 2A309(1)(d).
"Encumbrance".	Section 2A309(1)(e).
"Fixtures".	Section 2A309(1)(a).
"Fixture filing".	Section 2A309(1)(b).
"Purchase money lease".	Section 2A309(1)(c).

(3) The following definitions in other articles apply to this article:

"Account".	Section 9102(1)(b).
"Between merchants".	Section 2104(3).
"Buyer".	Section 2103(1)(a).
"Chattel paper".	Section 9102(1)(k).
"Consumer goods".	Section 9102(1)(w).
"Document".	Section 9102(1)(dd).
"Entrusting".	Section 2403(3).
"General intangible".	Section 9102(1)(pp).
"Good faith".	Section 2103(1)(b).
"Instrument".	Section 9102(1)(uu).

“Merchant”.	Section 2104(1).
“Mortgage”.	Section 9102(1)(ccc).
“Pursuant to commitment”.	Section 9102(1)(sss).
“Receipt”.	Section 2103(1)(c).
“Sale”.	Section 2106(1).
“Sale on approval”.	Section 2326.
“Sale or return”.	Section 2326.
“Seller”.	Section 2103(1)(d).

(4) In addition article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Sec. 2A303. (1) As used in this section, “creation of a security interest” includes the sale of a lease contract that is subject to article 9, secured transactions, by reason of section 9109(1)(c).

(2) Except as provided in subsection (3) and section 9407, a provision in a lease agreement (i) which prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation, or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor’s residual interest in the goods, or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection (4), but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

(3) A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor’s due performance of the transferor’s entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection (4).

(4) Subject to subsection (3) and section 9407, the following rules apply:

(a) If a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in section 2A501(2).

(b) If subdivision (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(5) A transfer of “the lease” or of “all my rights under the lease” or a transfer in similar general terms is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(6) Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(7) In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

Sec. 2A307. (1) Except as otherwise provided in section 2A306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in subsection (3) and in sections 2A306 and 2A308, a creditor of a lessor takes subject to the lease contract unless the creditor holds a lien that attached to the goods before the lease contract became enforceable.

(3) Except as otherwise provided in sections 9317, 9321, and 9323, a lessee takes a leasehold interest subject to a security interest held by a creditor of the lessor.

Sec. 2A309. (1) As used in this section:

(a) “Goods” are “fixtures” when they become so related to particular real estate that an interest in them arises under real estate law.

(b) A “fixture filing” is the filing, in the office where a record of a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of section 9502(1) and (2).

(c) A “lease” is a “purchase money lease” unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable.

(d) A “mortgage” is a “construction mortgage” to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.

(e) “Encumbrance” includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(2) Under this article a lease may be of goods that are fixtures or may continue in goods that become fixtures, but no lease exists under this article of ordinary building materials incorporated into an improvement on land.

(3) This article does not prevent creation of a lease of fixtures pursuant to real estate law.

(4) The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if either of the following applies:

(a) The lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture filing before the goods become fixtures or within 10 days thereafter, and the lessee has an interest of record in the real estate or is in possession of the real estate.

(b) The interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor’s interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate.

(5) The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if any of the following apply:

(a) The fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease, and before the goods become fixtures, the lease contract is enforceable.

(b) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable.

(c) The encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures.

(d) The lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee’s right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

(6) Notwithstanding subsection (4)(a) but otherwise subject to subsections (4) and (5), the interest of a lessor of fixtures, including the lessor’s residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

(7) In cases not within the preceding subsections, priority between the interest of a lessor of fixtures, including the lessor’s residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

(8) If the interest of a lessor of fixtures, including the lessor’s residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may (i) on default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and this article, or (ii) if necessary to enforce other rights and remedies of the lessor or lessee under this article, remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but the lessor or lessee must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

(9) Even though the lease agreement does not create a security interest, the interest of a lessor of fixtures, including the lessor’s residual interest, is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of article 9.

Sec. 2A525. (1) If a lessor discovers the lessee to be insolvent, the lessor may refuse to deliver the goods.

(2) After a default by the lessee under the lease contract of the type described in section 2A523(1) or 2A523(3)(a) or, if agreed, after other default by the lessee, the lessor has the right to take possession of the goods. If the lease contract

so provides, the lessor may require the lessee to assemble the goods and make them available to the lessor at a place to be designated by the lessor which is reasonably convenient to both parties. Without removal, the lessor may render unusable any goods employed in trade or business, and may dispose of goods on the lessee's premises (section 2A527).

(3) The lessor may proceed under subsection (2) without judicial process if that can be done without breach of the peace or the lessor may proceed by action.

Sec. 4210. (1) A collecting bank has a security interest in an item and any accompanying documents or the proceeds of any of the following:

(a) In case of an item deposited in an account to the extent to which credit given for the item has been withdrawn or applied.

(b) In case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given whether or not the credit is drawn upon and whether or not there is a right of charge-back.

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

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

(3) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to article 9 except for the following:

(a) No security agreement is necessary to make the security interest enforceable (section 9203(2)(c)(i)).

(b) No filing is required to perfect the security interest.

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

Sec. 5118. (1) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(2) So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (1), the security interest continues and is subject to article 9, but all of the following apply:

(a) A security agreement is not necessary to make the security interest enforceable under section 9203(2)(c).

(b) If the document is presented in a medium other than a written or other tangible medium, the security interest is perfected.

(c) If the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.

Sec. 7503. (1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who did neither of the following:

(a) Delivered or entrusted them or any document of title covering them to the bailor or his or her nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this article (section 7403) or with power of disposition under this act (sections 2403 and 9320) or other statute or rule of law.

(b) Acquiesced in the procurement by the bailor or his or her nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a title may be defeated under the next section to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone to whom a bill issued by the freight forwarder is duly negotiated; but delivery by the carrier in accordance with part 4 of this article pursuant to its own bill of lading discharges the carrier's obligation to deliver.

Sec. 8103. (1) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(2) An investment company security is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount

certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(3) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(4) A writing that is a security certificate is governed by this article and not by article 3, even though it also meets the requirements of that article. However, a negotiable instrument governed by article 3 is a financial asset if it is held in a securities account.

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

(6) A commodity contract, as defined in section 9102(1)(o), is not a security or a financial asset.

Sec. 8106. (1) A purchaser has “control” of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(2) A purchaser has “control” of a certificated security in registered form if the certificated security is delivered to the purchaser and if either of the following applies:

(a) The certificate is indorsed to the purchaser or in blank by an effective indorsement.

(b) The certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(3) A purchaser has “control” of an uncertificated security if either of the following applies:

(a) The uncertificated security is delivered to the purchaser.

(b) The issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(4) A purchaser has “control” of a security entitlement if 1 of the following applies:

(a) The purchaser becomes the entitlement holder.

(b) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder.

(c) Another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser.

(5) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder’s own securities intermediary, the securities intermediary has control.

(6) A purchaser who has satisfied the requirements of subsection (3)(b) or (4)(b) has control even if the registered owner in the case of subsection (3)(b) or the entitlement holder in the case of subsection (4)(b) retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(7) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (3)(b) or (4)(b) without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

Sec. 8110. (1) The law of the issuer’s jurisdiction, as specified in subsection (4), governs all of the following:

(a) The validity of a security.

(b) The rights and duties of the issuer with respect to registration of transfer.

(c) The effectiveness of registration of transfer by the issuer.

(d) Whether the issuer owes any duties to an adverse claimant to a security.

(e) Whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(2) The law of the securities intermediary’s jurisdiction, as specified in subsection (5), governs all of the following:

(a) Acquisition of a security entitlement from the securities intermediary.

(b) The rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement.

(c) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement.

(d) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(3) The law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(4) “Issuer’s jurisdiction” means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in subsection (1)(b) through (e).

(5) The following rules determine a “securities intermediary’s jurisdiction” for the purposes of this section:

(a) If an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary’s jurisdiction for purposes of this part, this article, or this amendatory act, that jurisdiction is the securities intermediary’s jurisdiction.

(b) If subdivision (a) does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary’s jurisdiction.

(c) If neither subdivision (a) nor subdivision (b) applies and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary’s jurisdiction.

(d) If none of the preceding subdivisions apply, the securities intermediary’s jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder’s account is located.

(e) If none of the preceding subdivisions apply, the securities intermediary’s jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located.

(6) A securities intermediary’s jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record-keeping concerning the account.

Sec. 8301. (1) Delivery of a certificated security to a purchaser occurs when 1 of the following occurs:

(a) The purchaser acquires possession of the security certificate.

(b) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser.

(c) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and is (i) registered in the name of the purchaser, (ii) payable to the order of the purchaser, or (iii) specially indorsed to the purchaser by an effective indorsement and has not been endorsed to the securities intermediary or in blank.

(2) Delivery of an uncertificated security to a purchaser occurs when either of the following occurs:

(a) The issuer registers the purchaser as the registered owner, upon original issue or registration of transfer.

(b) Another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

Sec. 8302. (1) Except as otherwise provided in subsections (2) and (3), a purchaser of a certificated or uncertificated security acquires all rights in the security that the transferor had or had power to transfer.

(2) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(3) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

Sec. 8510. (1) In a case not covered by the priority rules in article 9 or the rules stated in subsection (3), an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest in a security entitlement, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(2) If an adverse claim could not have been asserted against an entitlement holder under section 8502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest in a security entitlement, from the entitlement holder.

(3) In a case not covered by the priority rules in article 9, a purchaser for value of a security entitlement, or an interest in a security entitlement, who obtains control has priority over a purchaser of a security entitlement, or an interest in a security entitlement, who does not obtain control. Except as otherwise provided in subsection (4), purchasers who have control rank according to priority in time of 1 of the following:

(a) The purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under section 8106(4)(a).

(b) The securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under section 8106(4)(b).

(c) If the purchaser obtained control through another person under section 8106(4)(c), the time on which priority would be based under this subsection if the other person were the secured party.

(4) A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

ARTICLE 9

SECURED TRANSACTIONS

PART 1

GENERAL PROVISIONS

SUBPART 1. SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

Sec. 9102. (1) As used in this article:

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

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

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

(d) "Accounting", except as used in "accounting for", means a record that meets all of the following requirements:

(i) Authenticated by a secured party.

(ii) Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record.

(iii) Identifying the components of the obligations in reasonable detail.

(e) "Agricultural lien" means an interest, other than a security interest, in farm products that meets all of the following requirements:

(i) The interest secures payment or performance of an obligation for 1 or more of the following:

(A) Goods or services furnished in connection with a debtor's farming operation.

(B) Rent on real property leased by a debtor in connection with its farming operation.

(ii) The interest is created by statute in favor of a person that did 1 or more of the following:

(A) In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation.

(B) Leased real property to a debtor in connection with the debtor's farming operation.

(iii) The effectiveness of the interest does not depend on the person's possession of the personal property.

(f) "As-extracted collateral" means 1 or more of the following:

(i) Oil, gas, or other minerals that are subject to a security interest that is created by a debtor having an interest in the minerals before extraction and attaches to the minerals as extracted.

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

(g) “Authenticate” means 1 of the following:

(i) To sign.

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

(h) “Bank” means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(i) “Cash proceeds” means proceeds that are money, checks, deposit accounts, or the like.

(j) “Certificate of title” means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral.

(k) “Chattel paper” means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. As used in this subdivision, “monetary obligation” means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include charters or other contracts involving the use or hire of a vessel, or records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(l) “Collateral” means the property subject to a security interest or agricultural lien. The term includes 1 or more of the following:

(i) Proceeds to which a security interest attaches.

(ii) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold.

(iii) Goods that are the subject of a consignment.

(m) “Commercial tort claim” means a claim arising in tort with respect to which 1 of the following applies:

(i) The claimant is an organization.

(ii) The claimant is an individual and the claim arose in the course of the claimant’s business or profession and does not include damages arising out of personal injury to or the death of an individual.

(n) “Commodity account” means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(o) “Commodity contract” means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is 1 of the following:

(i) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws.

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

(p) “Commodity customer” means a person for which a commodity intermediary carries a commodity contract on its books.

(q) “Commodity intermediary” means 1 of the following:

(i) A person that is registered as a futures commission merchant under federal commodities law.

(ii) A person that in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(r) “Communicate” means 1 or more of the following:

(i) To send a written or other tangible record.

(ii) To transmit a record by any means agreed upon by the persons sending and receiving the record.

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

(s) “Consignee” means a merchant to which goods are delivered in a consignment.

(t) “Consignment” means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and that meets all of the following:

(i) The merchant deals in goods of that kind under a name other than the name of the person making delivery, is not an auctioneer, and is not generally known by its creditors to be substantially engaged in selling the goods of others.

(ii) With respect to each delivery, the aggregate value of the goods is \$1,000.00 or more at the time of delivery.

(iii) The goods are not consumer goods immediately before delivery.

(iv) The transaction does not create a security interest that secures an obligation.

(u) “Consignor” means a person that delivers goods to a consignee in a consignment.

(v) “Consumer debtor” means a debtor in a consumer transaction.

(w) “Consumer goods” means goods that are used or bought for use primarily for personal, family, or household purposes.

(x) “Consumer-goods transaction” means a consumer transaction in which an individual incurs an obligation primarily for personal, family, or household purposes and a security interest in consumer goods secures the obligation.

(y) “Consumer obligor” means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(z) “Consumer transaction” means a transaction in which an individual incurs an obligation primarily for personal, family, or household purposes, a security interest secures the obligation, and the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(aa) “Continuation statement” means an amendment of a financing statement which identifies, by its file number, the initial financing statement to which it relates and indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(bb) “Debtor” means 1 of the following:

(i) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor.

(ii) A seller of accounts, chattel paper, payment intangibles, or promissory notes.

(iii) A consignee.

(cc) “Deposit account” means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(dd) “Document” means a document of title or a receipt of the type described in section 7201(2).

(ee) “Electronic chattel paper” means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(ff) “Encumbrance” means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(gg) “Equipment” means goods other than inventory, farm products, or consumer goods.

(hh) “Farm products” means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are 1 of the following:

(i) Crops grown, growing, or to be grown, including crops produced on trees, vines, and bushes, and aquatic goods produced in aquacultural operations.

(ii) Livestock, born or unborn, including aquatic goods produced in aquacultural operations.

(iii) Supplies used or produced in a farming operation.

(iv) Products of crops or livestock in their unmanufactured states.

(ii) “Farming operation” means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(jj) “File number” means the number assigned to an initial financing statement pursuant to section 9519(1).

(kk) “Filing office” means an office designated in section 9501 as the place to file a financing statement.

(ll) “Filing-office rule” means a rule adopted pursuant to section 9526.

(mm) “Financing statement” means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(nn) “Fixture filing” means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 9502(1) and (2). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(oo) “Fixtures” means goods that have become so related to particular real property that an interest in them arises under real property law.

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

(qq) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(rr) “Goods” means all things that are movable when a security interest attaches. The term includes fixtures, standing timber that is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if the program is associated with the goods in such a manner that it customarily is considered part of the goods, or by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

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

(tt) “Health-care-insurance receivable” means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(uu) “Instrument” means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include investment property, letters of credit, or writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(vv) “Inventory” means goods, other than farm products, that meet 1 of the following:

(i) Are leased by a person as lessor.

(ii) Are held by a person for sale or lease or to be furnished under a contract of service.

(iii) Are furnished by a person under a contract of service.

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

(ww) “Investment property” means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(xx) “Jurisdiction of organization”, with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(yy) “Letter-of-credit right” means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(zz) “Lien creditor” means 1 or more of the following:

(i) A creditor that has acquired a lien on the property involved by attachment, levy, or the like.

(ii) An assignee for benefit of creditors from the time of assignment.

(iii) A trustee in bankruptcy from the date of the filing of the petition.

(iv) A receiver in equity from the time of appointment.

(aaa) “Manufactured home” means a structure, transportable in 1 or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of the department of housing and urban development and complies with the standards established under title 42 of the United States Code.

(bbb) “Manufactured-home transaction” means a secured transaction that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory, or in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(ccc) “Mortgage” means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(ddd) “New debtor” means a person that becomes bound as debtor under section 9203(4) by a security agreement previously entered into by another person.

(eee) “New value” means money, money’s worth in property, services, or new credit, or release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(fff) “Noncash proceeds” means proceeds other than cash proceeds.

(ggg) “Obligor” means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, owes payment or other performance of the obligation, has provided property other than the collateral to secure payment or other performance of the obligation, or is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(hhh) “Original debtor” means, except as used in section 9310(3), a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 9203(4).

(iii) “Payment intangible” means a general intangible under which the account debtor’s principal obligation is a monetary obligation.

(jjj) “Person related to”, with respect to an individual, means 1 or more of the following:

(i) The spouse of the individual.

(ii) A brother, brother-in-law, sister, or sister-in-law of the individual.

(iii) An ancestor or lineal descendant of the individual or the individual’s spouse.

(iv) Any other relative, by blood or marriage, of the individual or the individual’s spouse who shares the same home with the individual.

(kkk) “Person related to”, with respect to an organization, means 1 or more of the following:

(i) A person directly or indirectly controlling, controlled by, or under common control with the organization.

(ii) An officer or director of, or a person performing similar functions with respect to, the organization.

(iii) An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (i).

(iv) The spouse of an individual described in subparagraph (i), (ii), or (iii).

(v) An individual who is related by blood or marriage to an individual described in subparagraph (i), (ii), (iii), or (iv) and shares the same home with the individual.

(lll) “Proceeds” means, except as used in section 9609(2), 1 or more of the following property:

(i) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral.

(ii) Whatever is collected on, or distributed on account of, collateral.

(iii) Rights arising out of collateral.

(iv) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral.

(v) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(mmm) “Promissory note” means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(nnn) “Proposal” means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 9620, 9621, and 9622.

(ooo) “Pursuant to commitment”, with respect to an advance made or other value given by a secured party, means pursuant to the secured party’s obligation, whether or not a subsequent event of default or other event not within the secured party’s control has relieved or may relieve the secured party from its obligation.

(ppp) “Record”, except as used in “for record”, “of record”, “record or legal title”, and “record owner”, means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(qqq) “Registered organization” means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(rrr) “Secondary obligor” means an obligor to the extent that the obligor’s obligation is secondary or the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(sss) “Secured party” means 1 or more of the following:

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

(ii) A person that holds an agricultural lien.

(iii) A consignor.

(iv) A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold.

(v) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for.

(vi) A person that holds a security interest arising under section 2401, 2505, 2711(3), 2A508(5), 4210, or 5118.

(ttt) “Security agreement” means an agreement that creates or provides for a security interest.

(uuu) “Send”, in connection with a record or notification, means 1 of the following:

(i) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances.

(ii) To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (i).

(vvv) “Software” means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(www) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(xxx) “Supporting obligation” means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(yyy) “Tangible chattel paper” means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(zzz) “Termination statement” means an amendment of a financing statement that identifies, by its file number, the initial financing statement to which it relates and indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(aaaa) “Transmitting utility” means a person primarily engaged in the business of 1 of the following:

(i) Operating a railroad, subway, street railway, or trolley bus.

(ii) Transmitting communications electrically, electromagnetically, or by light.

(iii) Transmitting goods by pipeline or sewer.

(iv) Transmitting or producing and transmitting electricity, steam, gas, or water.

(2) The following definitions in other articles apply to this article:

“Applicant”	Section 5102
“Beneficiary”	Section 5102
“Broker”	Section 8102
“Certificated security”	Section 8102
“Check”	Section 3104
“Clearing corporation”	Section 8102
“Contract for sale”	Section 2106
“Customer”	Section 4104
“Entitlement holder”	Section 8102
“Financial asset”	Section 8102
“Holder in due course”	Section 3302
“Issuer” (with respect to a letter of credit or letter-of-credit right)	Section 5102
“Issuer” (with respect to a security)	Section 8201
“Lease”	Section 2A103
“Lease agreement”	Section 2A103
“Lease contract”	Section 2A103
“Leasehold interest”	Section 2A103
“Lessee”	Section 2A103

“Lessee in ordinary course of business”	Section 2A103
“Lessor”	Section 2A103
“Lessor’s residual interest”	Section 2A103
“Letter of credit”	Section 5102
“Merchant”	Section 2104
“Negotiable instrument”	Section 3104
“Nominated person”	Section 5102
“Note”	Section 3104
“Proceeds of a letter of credit”	Section 5114
“Prove”	Section 3103
“Sale”	Section 2106
“Securities account”	Section 8501
“Securities intermediary”	Section 8102
“Security”	Section 8102
“Security certificate”	Section 8102
“Security entitlement”	Section 8102
“Uncertificated security”	Section 8102.

(3) Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Sec. 9103. (1) As used in this section:

(a) “Purchase-money collateral” means goods or software that secures a purchase-money obligation incurred with respect to that collateral.

(b) “Purchase-money obligation” means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(2) A security interest in goods is a purchase-money security interest to the following extent, as applicable:

(a) To the extent that the goods are purchase-money collateral with respect to that security interest.

(b) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest.

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

(3) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if the debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods, and the debtor acquired its interest in the software for the principal purpose of using the software in the goods.

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

(5) In a transaction other than a consumer-goods transaction, if the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied in 1 of the following, as applicable:

(a) In accordance with any reasonable method of application to which the parties agree.

(b) In the absence of the parties’ agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment.

(c) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor’s intention, in the following order:

(i) To obligations that are not secured.

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

(6) In a transaction other than a consumer-goods transaction, a purchase-money security interest does not lose its status as such, even if the purchase-money collateral also secures an obligation that is not a purchase-money obligation, collateral that is not purchase-money collateral also secures the purchase-money obligation, or the purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

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

(8) The limitation of the rules in subsections (5), (6), and (7) to transactions other than consumer-goods transactions is intended to leave to the court the determination of the proper rules in consumer-goods transactions. The court may not infer from that limitation the nature of the proper rule in consumer-goods transactions and may continue to apply established approaches.

Sec. 9104. (1) A secured party has control of a deposit account if 1 or more of the following apply:

(a) The secured party is the bank with which the deposit account is maintained.

(b) The debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor.

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

(2) A secured party that has satisfied subsection (1) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

Sec. 9105. A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that all of the following apply:

(a) A single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in subdivisions (d), (e), and (f), unalterable.

(b) The authoritative copy identifies the secured party as the assignee of the record or records.

(c) The authoritative copy is communicated to and maintained by the secured party or its designated custodian.

(d) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party.

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy.

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

Sec. 9106. (1) A person has control of a certificated security, uncertificated security, or security entitlement as provided in section 8106.

(2) A secured party has control of a commodity contract if either of the following is met:

(a) The secured party is the commodity intermediary with which the commodity contract is carried.

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

(3) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

Sec. 9107. A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under section 5114(3) or otherwise applicable law or practice.

Sec. 9108. (1) Except as otherwise provided in subsections (3), (4), and (5), a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(2) Except as otherwise provided in subsection (4), a description of collateral reasonably identifies the collateral if it identifies the collateral by 1 or more of the following:

(a) Specific listing.

(b) Category.

(c) Except as otherwise provided in subsection (5), a type of collateral defined in the uniform commercial code.

(d) Quantity.

(e) Computational or allocational formula or procedure.

(f) Except as otherwise provided in subsection (3), any other method, if the identity of the collateral is objectively determinable.

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

(4) Except as otherwise provided in subsection (5), a description of a security entitlement, securities account, or commodity account is sufficient if it describes 1 or more of the following:

- (a) The collateral by the term security entitlement, securities account, or commodity account, or as investment property.
- (b) The underlying financial asset or commodity contract.
- (5) A description only by type of collateral defined in the uniform commercial code is an insufficient description of either of the following:
 - (a) A commercial tort claim.
 - (b) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

SUBPART 2. APPLICABILITY OF ARTICLE

Sec. 9109. (1) Except as otherwise provided in subsections (3) and (4), this article applies to all of the following:

- (a) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract.
- (b) An agricultural lien.
- (c) A sale of accounts, chattel paper, payment intangibles, or promissory notes.
- (d) A consignment.
- (e) A security interest arising under section 2401, 2505, 2711(3), or 2A508(5), as provided in section 9110.
- (f) A security interest arising under section 4210 or 5118.
- (2) The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.
- (3) This article does not apply to the extent that 1 or more of the following apply:
 - (a) A statute, regulation, or treaty of the United States preempts this article.
 - (b) Another statute of this state expressly governs the creation, perfection, priority, or enforcement of a security interest created by this state or a governmental unit of this state.
 - (c) A statute of another state, a foreign country, or a governmental unit of another state or foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by that state, country, or governmental unit.
 - (d) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under section 5114.
- (4) This article does not apply to any of the following:
 - (a) A landlord's lien, other than an agricultural lien.
 - (b) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but section 9333 applies with respect to priority of the lien.
 - (c) An assignment of a claim for wages, salary, or other compensation of an employee.
 - (d) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose.
 - (e) An assignment of accounts, chattel paper, payment intangibles, or promissory notes that is for the purpose of collection only.
 - (f) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract.
 - (g) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness.
 - (h) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but sections 9315 and 9322 apply with respect to proceeds and priorities in proceeds.
 - (i) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral.
 - (j) A right of recoupment of set-off, but section 9340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts and section 9404 applies with respect to defenses or claims of an account debtor.
 - (k) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for 1 or more of the following:
 - (i) Liens on real property in sections 9203 and 9308.
 - (ii) Fixtures in section 9334.
 - (iii) Fixture filings in sections 9501, 9502, 9512, 9516, and 9519.

- (iv) Security agreements covering personal and real property in section 9604.
- (l) The creation of or transfer of an interest in or lien on a land contract mortgage governed by sections 6 through 11 of 1879 PA 237, MCL 565.356 to 565.361.
- (m) A transfer by a governmental unit or governmental subdivision or agency.
- (n) An assignment of a claim arising in tort, other than a commercial tort claim, but sections 9315 and 9322 apply with respect to proceeds and priorities in proceeds.
- (o) An assignment of a deposit account in a consumer transaction, but sections 9315 and 9322 apply with respect to proceeds and priorities in proceeds.

Sec. 9110. A security interest arising under section 2401, 2505, 2711(3), or 2A508(5) is subject to this article. However, until the debtor obtains possession of the goods, all of the following apply:

- (a) The security interest is enforceable, even if section 9203(2)(c) has not been satisfied.
- (b) Filing is not required to perfect the security interest.
- (c) The rights of the secured party after default by the debtor are governed by article 2 or 2A.
- (d) The security interest has priority over a conflicting security interest created by the debtor.

PART 2

EFFECTIVENESS OF SECURITY AGREEMENT; ATTACHMENT OF SECURITY INTEREST; RIGHTS OF PARTIES TO SECURITY AGREEMENT

SUBPART 1. EFFECTIVENESS AND ATTACHMENT

Sec. 9201. (1) Except as otherwise provided in this act, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) A transaction subject to this article is subject to any applicable rule of law that establishes a different rule for consumers and to each of the following, as applicable:

- (a) The regulatory loan act of 1963, 1939 PA 21, MCL 493.1 to 493.26.
- (b) 1939 PA 305, MCL 566.301 to 566.302.
- (c) The motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141.
- (d) The mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.
- (e) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.
- (f) 1978 PA 387, MCL 257.931 to 257.937.
- (g) 1986 PA 87, MCL 257.1401 to 257.1410.
- (h) The grain dealers act, 1939 PA 141, MCL 285.61 to 285.82a.
- (i) The Michigan family farm development act, 1982 PA 220, MCL 285.251 to 285.279.
- (j) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.
- (k) 1982 PA 459, MCL 325.851 to 325.858.
- (l) 1970 PA 90, MCL 442.311 to 442.315.
- (m) 1971 PA 227, MCL 445.111 to 445.117.
- (n) The retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873.
- (o) The Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922.
- (p) The home improvement finance act, 1965 PA 332, MCL 445.1102 to 445.1431.
- (q) 1941 PA 338, MCL 566.1.
- (r) The garage keeper's lien act, 1915 PA 312, MCL 570.301 to 570.309.
- (s) 1939 PA 3, MCL 460.1 to 460.10cc.

(3) In case of conflict between this article and a rule of law, statute, or regulation described in subsection (2), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (2) has only the effect the statute or regulation specifies.

(4) This article does not validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (2), or extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

Sec. 9202. Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this article with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

Sec. 9203. (1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(2) Except as otherwise provided in subsections (3) through (9), a security interest is enforceable against the debtor and third parties with respect to the collateral only if all of the following are met:

(a) Value has been given.

(b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party.

(c) One or more of the following conditions are met:

(i) The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned.

(ii) The collateral is not a certificated security and is in the possession of the secured party under section 9313 pursuant to the debtor's security agreement.

(iii) The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under section 8301 pursuant to the debtor's security agreement.

(iv) The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under section 9104, 9105, 9106, or 9107 pursuant to the debtor's security agreement.

(3) Subsection (2) is subject to section 4210 on the security interest of a collecting bank, section 5118 on the security interest of a letter-of-credit issuer or nominated person, section 9110 on a security interest arising under article 2 or 2A, and section 9206 on security interests in investment property.

(4) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this article or by contract, either of the following occurs:

(a) The security agreement becomes effective to create a security interest in the person's property.

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

(5) If a new debtor becomes bound as debtor by a security agreement entered into by another person, the agreement satisfies subsection (2)(c) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement, and another agreement is not necessary to make a security interest in the property enforceable.

(6) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by section 9315 and is also attachment of a security interest in a supporting obligation for the collateral.

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

(8) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(9) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Sec. 9204. (1) Except as otherwise provided in subsection (2), a security agreement may create or provide for a security interest in after-acquired collateral.

(2) A security interest does not attach under a term constituting an after-acquired property clause to either of the following:

(a) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within 10 days after the secured party gives value.

(b) A commercial tort claim.

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

Sec. 9205. (1) A security interest is not invalid or fraudulent against creditors solely because of either of the following:

(a) The debtor has the right or ability to do 1 or more of the following:

- (i) Use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods.
- (ii) Collect, compromise, enforce, or otherwise deal with collateral.
- (iii) Accept the return of collateral or make repossessions.
- (iv) Use, commingle, or dispose of proceeds.
- (b) The secured party fails to require the debtor to account for proceeds or replace collateral.
- (2) This section does not relax the requirements of possession if attachment, perfection, or enforcement or a security interest depends upon possession of the collateral by the secured party.

Sec. 9206. (1) A security interest in favor of a securities intermediary attaches to a person's security entitlement if the person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase, and the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

- (2) The security interest described in subsection (1) secures the person's obligation to pay for the financial asset.
- (3) A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if both of the following are met:
 - (a) The security or other financial asset in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment, and is delivered under an agreement between persons in the business of dealing with the securities or financial assets.
 - (b) The agreement calls for delivery against payment.
- (4) The security interest described in subsection (3) secures the obligation to make payment for the delivery.

SUBPART 2. RIGHTS AND DUTIES

Sec. 9207. (1) Except as otherwise provided in subsection (4), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4), if a secured party has possession of collateral all of the following apply:

- (a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral.
- (b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage.
- (c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled.
- (d) The secured party may use or operate the collateral for the purpose of preserving the collateral or its value; as permitted by an order of a court having competent jurisdiction; or except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under section 9104, 9105, 9106, or 9107 may hold as additional security any proceeds, except money or funds, received from the collateral, shall apply money or funds received from the collateral to reduce the secured obligation unless remitted to the debtor, and may create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, subsections (2) and (3) do not apply, and subsection (1) does not apply unless the secured party is entitled under an agreement to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral.

Sec. 9208. (1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor, a secured party shall do all of the following that apply to the secured party:

- (a) A secured party having control of a deposit account under section 9104(1)(b) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party.
- (b) A secured party having control of a deposit account under section 9104(1)(c) shall pay the debtor the balance on deposit in the deposit account or transfer the balance on deposit into a deposit account in the debtor's name.
- (c) A secured party, other than a buyer, having control of electronic chattel paper under section 9105 shall do all of the following:

(i) Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian.

(ii) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor.

(iii) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy that add or change an identified assignee of the authoritative copy without the consent of the secured party.

(d) A secured party having control of investment property under section 8106(4)(b) or section 9106(2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party.

(e) A secured party having control of a letter-of-credit right under section 9107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

Sec. 9209. (1) Except as otherwise provided in subsection (3), this section applies if there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under section 9406(1) an authenticated record that releases the account debtor from any further obligation to the secured party.

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

Sec. 9210. (1) As used in this section:

(a) "Request" means a record of a type described in subdivision (b), (c), or (d).

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

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

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

(2) Subject to subsections (3), (4), (5), and (6), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request in the following manner within 14 days after the receipt of the request:

(a) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting.

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

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

(4) A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record disclaiming any interest in the collateral, and if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(5) A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record disclaiming any interest in the obligations, and if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(6) A debtor is entitled without charge to 1 response to a request under this section during any 6-month period. The secured party may require payment of a charge not exceeding \$25.00 for each additional response.

PART 3

PERFECT AND PRIORITY

SUBPART 1. LAW GOVERNING PERFECTION AND PRIORITY

Sec. 9301. Except as otherwise provided in sections 9303 through 9306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

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

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

(c) Except as otherwise provided in subdivision (d), while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs perfection of a security interest in the goods by filing a fixture filing, perfection of a security interest in timber to be cut, and the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

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

Sec. 9302. While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

Sec. 9303. (1) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

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

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

Sec. 9304. (1) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

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

(a) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for the purpose of this part, this article, or this act, that jurisdiction is the bank's jurisdiction.

(b) If subdivision (a) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(c) If neither subdivision (a) nor (b) applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(d) If none of the preceding subdivisions apply, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(e) If none of the preceding subdivisions apply, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

Sec. 9305. (1) Except as otherwise provided in subsection (3), the following rules apply:

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

(b) The local law of the issuer's jurisdiction as specified in section 8110(4) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(c) The local law of the securities intermediary's jurisdiction as specified in section 8110(5) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

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

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

(a) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this article, or this act, that jurisdiction is the commodity intermediary's jurisdiction.

(b) If subdivision (a) does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(c) If neither subdivision (a) nor (b) applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(d) If none of the preceding subdivisions apply, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(e) If none of the preceding subdivisions apply, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(3) The local law of the jurisdiction in which the debtor is located governs perfection of a security interest in investment property by filing, automatic perfection of a security interest in investment property created by a broker or securities intermediary, and automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

Sec. 9306. (1) Subject to subsection (3), the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(2) For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in section 5116.

(3) This section does not apply to a security interest that is perfected only under section 9308(4).

Sec. 9307. (1) As used in this section, "place of business" means a place where a debtor conducts its affairs.

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

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

(b) A debtor that is an organization and has only 1 place of business is located at its place of business.

(c) A debtor that is an organization and has more than 1 place of business is located at its chief executive office.

(3) Subsection (2) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (2) does not apply, the debtor is located in the District of Columbia.

(4) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (2) and (3).

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

(6) Except as otherwise provided in subsection (9), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located in 1 of the following:

(a) In the state that the law of the United States designates, if the law designates a state of location.

(b) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location.

(c) In the District of Columbia, if neither subdivision (a) nor (b) applies.

(7) A registered organization continues to be located in the jurisdiction specified by subsection (5) or (6) notwithstanding the occurrence of 1 of the following:

- (a) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization.
- (b) The dissolution, winding up, or cancellation of the existence of the registered organization.
- (8) The United States is located in the District of Columbia.
- (9) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only 1 state.
- (10) A foreign air carrier is located at the designated office of the agent upon which service of process may be made on behalf of the carrier under section 46103 of title 49 of the United States Code, 49 U.S.C. 46103.
- (11) This section applies only for purposes of this part.

SUBPART 2. PERFECTION

Sec. 9308. (1) Except as otherwise provided in this section and section 9309, a security interest is perfected if it has attached and all of the applicable requirements for perfection in sections 9310 through 9316 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(2) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in section 9310 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(3) A security interest or agricultural lien is perfected continuously if it is originally perfected by 1 method under this article and is later perfected by another method under this article, without an intermediate period when it was unperfected.

(4) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

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

(6) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(7) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

Sec. 9309. Each of the following security interests is perfected when it attaches:

(a) A purchase-money security interest in consumer goods, except as otherwise provided in section 9311(2) with respect to consumer goods that are subject to a statute or treaty described in section 9311(1).

(b) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles.

(c) A sale of a payment intangible.

(d) A sale of a promissory note.

(e) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services.

(f) A security interest arising under section 2401, 2505, 2711(3), or 2A508(5), until the debtor obtains possession of the collateral.

(g) A security interest of a collecting bank arising under section 4210.

(h) A security interest of an issuer or nominated person arising under section 5118.

(i) A security interest arising in the delivery of a financial asset under section 9206(3).

(j) A security interest in investment property created by a broker or securities intermediary.

(k) A security interest in a commodity contract or a commodity account created by a commodity intermediary.

(l) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder.

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

Sec. 9310. (1) Except as otherwise provided in subsection (2) and section 9312(2), a financing statement must be filed to perfect all security interests and agricultural liens.

- (2) The filing of a financing statement is not necessary to perfect 1 or more of the following:
- (a) A security interest that is perfected under section 9308(4), (5), (6), or (7).
 - (b) A security interest that is perfected under section 9309 when it attaches.
 - (c) A security interest in property subject to a statute, regulation, or treaty described in section 9311(1).
 - (d) A security interest in goods in possession of a bailee that is perfected under section 9312(4)(a) or (b).
 - (e) A security interest in certificated securities, documents, goods, or instruments that is perfected without filing or possession under section 9312(5), (6), or (7).
 - (f) A security interest in collateral in the secured party's possession under section 9313.
 - (g) A security interest in a certificated security that is perfected by delivery of the security certificate to the secured party under section 9313.
 - (h) A security interest in deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights that is perfected by control under section 9314.
 - (i) A security interest in proceeds that is perfected under section 9315.
 - (j) A security interest that is perfected under section 9316.
- (3) If a secured party assigns a perfected security interest or agricultural lien, a filing under this article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

Sec. 9311. (1) Except as otherwise provided in subsection (4), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to 1 or more of the following:

- (a) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section 9310(1).
- (b) The following statutes of this state:
 - (i) Chapter II of the Michigan vehicle code, 1949 PA 300, MCL 257.201 to 257.259.
 - (ii) Part 803 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80301 to 324.80322.
 - (iii) Part 811 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150.
 - (iv) Sections 30 through 30h of the mobile home commission act, 1987 PA 96, MCL 125.2330 to 125.2330h.
- (c) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(2) Compliance with the requirements of a statute, regulation, or treaty described in subsection (1) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (4) and sections 9313 and 9316(4) and (5) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (1) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(3) Except as otherwise provided in subsection (4) and section 9316(4) and (5), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (1) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(4) During any period in which collateral subject to a statute specified in subsection (1)(b) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

Sec. 9312. (1) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(2) Except as otherwise provided in section 9315(3) and (4) for proceeds, a security interest in a deposit account, a letter-of-credit right, or money may be perfected only as follows:

- (a) A security interest in a deposit account may be perfected only by control under section 9314.
 - (b) Except as otherwise provided in section 9308(4), a security interest in a letter-of-credit right may be perfected only by control under section 9314.
 - (c) A security interest in money may be perfected only by the secured party's taking possession under section 9313.
- (3) While goods are in the possession of a bailee that has issued a negotiable document covering the goods, a security interest in the goods may be perfected by perfecting a security interest in the document, and a security interest

perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(4) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by 1 or more of the following:

- (a) Issuance of a document in the name of the secured party.
- (b) The bailee's receipt of notification of the secured party's interest.
- (c) Filing as to the goods.

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

(6) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange, or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange:

(7) A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of ultimate sale or exchange or for the purpose of presentation, collection, enforcement, renewal, or registration of transfer.

(8) After the 20-day period specified in subsection (5), (6), or (7) expires, perfection depends upon compliance with this article.

Sec. 9313. (1) Except as otherwise provided in subsection (2), a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under section 8301.

(2) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in section 9316(5).

(3) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when the person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit, or the person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

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

(5) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under section 8301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

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

(7) If a person acknowledges that it holds possession for the secured party's benefit, the acknowledgment is effective under subsection (3) or section 8301(1), even if the acknowledgment violates the rights of a debtor, and unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(8) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery to hold possession of the collateral for the secured party's benefit, or to redeliver the collateral to the secured party.

(9) A secured party does not relinquish possession, even if a delivery under subsection (8) violates the rights of a debtor. A person to which collateral is delivered under subsection (8) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article otherwise provides.

Sec. 9314. (1) A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under section 9104, 9105, 9106, or 9107.

(2) A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under section 9104, 9105, or 9107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(3) A security interest in investment property is perfected by control under section 9106 from the time the secured party obtains control and remains perfected by control until both of the following occur:

(a) The secured party does not have control.

(b) One of the following occurs:

(i) If the collateral is a certificated security, the debtor has or acquires possession of the security certificate.

(ii) If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner.

(iii) If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

Sec. 9315. (1) Except as otherwise provided in this article and in section 2403(2), both of the following apply:

(a) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien.

(b) A security interest attaches to any identifiable proceeds of collateral.

(2) Proceeds that are commingled with other property are identifiable proceeds to 1 of the following extents:

(a) If the proceeds are goods, to the extent provided by section 9336.

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

(3) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(4) A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless 1 of the following is met:

(a) All of the following conditions are satisfied:

(i) A filed financing statement covers the original collateral.

(ii) The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed.

(iii) The proceeds are not acquired with cash proceeds.

(b) The proceeds are identifiable cash proceeds.

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

(5) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subsection (4)(a) becomes unperfected at the later of when the effectiveness of the filed financing statement lapses under section 9515 or is terminated under section 9513, or the twenty-first day after the security interest attaches to the proceeds.

Sec. 9316. (1) A security interest perfected pursuant to the law of the jurisdiction designated in section 9301(a) or 9305(3) remains perfected until the earliest of the following:

(a) The time perfection would have ceased under the law of that jurisdiction.

(b) The expiration of 4 months after a change of the debtor's location to another jurisdiction.

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

(2) If a security interest described in subsection (1) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(3) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if all of the following are met:

(a) The collateral is located in 1 jurisdiction and subject to a security interest perfected under the law of that jurisdiction.

(b) Thereafter, the collateral is brought into another jurisdiction.

(c) Upon entry of the collateral into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(4) Except as otherwise provided in subsection (5), a security interest in goods covered by a certificate of title that is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(5) A security interest described in subsection (4) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under section 9311(2) or 9313 are not satisfied before the earlier of the following:

(a) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state.

(b) The expiration of 4 months after the goods had become so covered.

(6) A security interest in deposit accounts, letter-of-credit rights, or investment property that is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of the following:

(a) The time the security interest would have become unperfected under the law of that jurisdiction.

(b) The expiration of 4 months after a change of the applicable jurisdiction to another jurisdiction.

(7) If a security interest described in subsection (6) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

SUBPART 3. PRIORITY

Sec. 9317. (1) A security interest or agricultural lien is subordinate to the rights of 1 or more of the following:

(a) A person entitled to priority under section 9322.

(b) Except as otherwise provided in subsection (5), a person that becomes a lien creditor before the earlier of the following:

(i) The time the security interest or agricultural lien is perfected.

(ii) The time 1 of the conditions specified in section 9203(2)(c) is met and a financing statement covering the collateral is filed.

(2) Except as otherwise provided in subsection (5), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(3) Except as otherwise provided in subsection (5), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

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

(5) Except as otherwise provided in sections 9320 and 9321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor that arise between the time the security interest attaches and the time of filing.

Sec. 9318. (1) A debtor that has sold an account, chattel paper, payment intangibles, or promissory note does not retain a legal or equitable interest in the collateral sold.

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

Sec. 9319. (1) Except as otherwise provided in subsection (2), for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(2) For purposes of determining the rights of a creditor of a consignee, law other than this article determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

Sec. 9320. (1) Except as otherwise provided in subsection (5), a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(2) Except as otherwise provided in subsection (5), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys without knowledge of the security interest, for value, primarily for the buyer's personal, family, or household purposes, and before the filing of a financing statement covering the goods.

(3) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (2), the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by section 9316(1) and (2).

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

(5) Subsections (1) and (2) do not affect a security interest in goods in the possession of the secured party under section 9313.

(6) Subsections (7) to (14) shall apply in the case of a person buying farm products from a person engaged in farming operations.

(7) If requested by the secured party, a debtor engaged in farming operations who gives a security interest in farm products shall provide to the secured party a written list identifying potential buyers and points of delivery of the farm products. Except as otherwise provided by subsection (8), the number of potential buyers for each commodity shall not exceed 5. If a potential buyer has more than 1 point of delivery, each additional point of delivery shall be counted as a potential buyer.

(8) A debtor engaged in farming operations who provides a written list of potential buyers to a secured party pursuant to subsection (7) shall not sell farm products that secure the debt to a buyer who is not identified on the list without the prior written consent of the secured party. A person who knowingly or intentionally violates this subsection is guilty of a felony, punishable by imprisonment for not more than 3 years or a fine of not more than \$10,000.00, or both. If appropriate given the facts and circumstances of the case, the court shall place the person on probation upon the condition that restitution be made to the secured party. Payment of, or application of the proceeds to, the debt upon which the security interest is based is an absolute defense to a prosecution under this subsection if the payment or application is made prior to commencement of prosecution.

(9) A secured party who is provided with a written list of potential buyers pursuant to subsection (7) may notify buyers identified on the list of the security interest as provided in this subsection. A secured party shall not notify a person not identified on the list, except that the secured party may notify a buyer concerning whom the secured party has given prior written consent pursuant to subsection (8) or to whom the secured party has reasonable cause to believe the debtor is about to sell the farm products. A notice provided pursuant to this subsection shall be in writing and shall be mailed by certified mail or delivered by another method by which receipt can be verified. The notice may be in a form agreed upon in writing by the buyer and the secured party, but in absence of such an agreement the notice shall be an original financing statement or a carbon, photographic, or other reproduction of an original or a statement that contains all of the following:

- (a) The full name and address of the debtor.
- (b) The full name and address of the secured party.
- (c) A description of the collateral.
- (d) The date and location of the filing of the security interest.
- (e) The date and signature of the secured party.

(10) If the debt that is the basis of the security interest is satisfied, the secured party shall notify in writing each potential buyer to whom the secured party sent notice under subsection (9). The notice may be given within a time period agreed upon in writing by the buyer and the secured party, but in absence of such an agreement the notice shall be given within 11 days after the debt is satisfied.

(11) A secured party who does any of the following is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both:

- (a) Knowingly or intentionally gives false or misleading information in a notice provided pursuant to subsection (9).
- (b) Sends notice to a potential buyer other than as permitted in subsection (9).
- (c) Fails to notify a potential buyer of the satisfaction of a debt within the time period prescribed by subsection (10).

(12) A buyer of farm products who receives notice pursuant to subsection (9) of a security interest in the farm products shall make payment for the farm products by check or other instrument made payable to the seller and the secured party jointly, except that payment may be made directly to the secured party if authorized in writing by the seller. This subsection does not apply to any payment or partial payment made before notice under subsection (9) has been received by the buyer. A buyer of farm products who violates this subsection is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both. Payment of the debt upon which the security interest is based is an absolute defense to a prosecution under this subsection if payment is made prior to commencement of prosecution.

(13) As used in subsections (6) to (12), “person buying farm products” or “buyer” includes a commission merchant or selling agent who sells farm products in the ordinary course of business for a person engaged in farming operations.

(14) A buyer in ordinary course of business who receives notice pursuant to subsection (9), who buys farm products from a person engaged in farming operations, and who withholds all or part of the proceeds of the sale from the seller in order to satisfy a debt owed by the seller to the buyer, takes subject to a security interest in those farm products created by the seller, unless the debt owed by the seller to the buyer was secured by a prior perfected security interest. For purposes of this subsection, “debt” does not include the cost of harvesting; processing, including packaging, freezing, canning, and drying; storing; marketing; or transporting farm products to market.

(15) Except as otherwise provided by subsection (16), a commission merchant or selling agent who sells farm products, in the ordinary course of business, for a person engaged in farming operations is not liable to the holder of a security interest in those farm products even though the security interest is perfected and even though the commission merchant or selling agent knows of its existence.

(16) A commission merchant or selling agent who sells farm products, in the ordinary course of business, for a person engaged in farming operations, and who receives notice pursuant to subsection (9), shall not be protected from liability under subsection (15) if the commission merchant or selling agent withholds from the seller all or part of the proceeds of a sale of the farm products in order to satisfy a debt owed by the seller to the commission merchant or selling agent, unless the debt was secured by a prior perfected security interest. For purposes of this subsection, “debt” does not include the cost of harvesting; processing, including packaging, freezing, canning, and drying; storing; marketing; or transporting farm products to market.

(17) A prosecution under subsections (12) to (14) shall not be commenced after the expiration of 2 years following the date the violation occurred.

Sec. 9321. (1) As used in this section, “licensee in ordinary course of business” means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor’s own usual or customary practices.

(2) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

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

Sec. 9322. (1) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

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

(b) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

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

(2) For the purposes of subsection (1)(a), both of the following apply:

(a) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds.

(b) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(3) Except as otherwise provided in subsection (6), a security interest in collateral that qualifies for priority over a conflicting security interest under section 9327, 9328, 9329, 9330, or 9331 also has priority over a conflicting security interest in 1 or more of the following:

- (a) Any supporting obligation for the collateral.
- (b) Proceeds of the collateral if all of the following are met:
 - (i) The security interest in proceeds is perfected.
 - (ii) The proceeds are cash proceeds or of the same type as the collateral.
 - (iii) In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(4) Subject to subsection (5) and except as otherwise provided in subsection (6), if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(5) Subsection (4) applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(6) Subsections (1) through (5) are subject to all of the following:

- (a) Subsection (7) and the other provisions of this part.
- (b) Section 4210 with respect to a security interest of a collecting bank.
- (c) Section 5118 with respect to a security interest of an issuer or nominated person.
- (d) Section 9110 with respect to a security interest arising under article 2 or 2A.

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

Sec. 9323. (1) Except as otherwise provided in subsection (3), for purposes of determining the priority of a perfected security interest under section 9322(1)(a), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that meets both of the following:

(a) Is made while the security interest is perfected only under 1 of the following:

- (i) Under section 9309 when it attaches.
- (ii) Temporarily under section 9312(5), (6), or (7).

(b) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under section 9309 or 9312(5), (6), or (7).

(2) Except as otherwise provided in subsection (3), a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than 45 days after the person becomes a lien creditor unless the advance is made without knowledge of the lien, or pursuant to a commitment entered into without knowledge of the lien.

(3) Subsections (1) and (2) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(4) Except as otherwise provided in subsection (5), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of the following:

- (a) The time the secured party acquires knowledge of the buyer's purchase.
- (b) Forty-five days after the purchase.

(5) Subsection (4) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45-day period.

(6) Except as otherwise provided in subsection (7), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of the following:

- (a) The time the secured party acquires knowledge of the lease.
- (b) Forty-five days after the lease contract becomes enforceable.

(7) Subsection (6) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

Sec. 9324. (1) Except as otherwise provided in subsection (7), a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in section 9327, a perfected security interest in its identifiable proceeds also has priority, if the

purchase-money security interest is perfected when the debtor receives possession of the collateral or within 20 days thereafter.

(2) Subject to subsection (3) and except as otherwise provided in subsection (7), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in section 9330, and, except as otherwise provided in section 9327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if all of the following are met:

(a) The purchase-money security interest is perfected when the debtor receives possession of the inventory.

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest.

(c) The holder of the conflicting security interest receives the notification within 5 years before the debtor receives possession of the inventory.

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

(3) Subsection (2)(b) through (d) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory before 1 of the following:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing.

(b) If the purchase-money security interest is temporarily perfected without filing or possession under section 9312(6), before the beginning of the 20-day period thereunder.

(4) Subject to subsection (5) and except as otherwise provided in subsection (7), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in section 9327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if all of the following are met:

(a) The purchase-money security interest is perfected when the debtor receives possession of the livestock.

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest.

(c) The holder of the conflicting security interest receives the notification within 6 months before the debtor receives possession of the livestock.

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

(5) Subsection (4)(b) through (d) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock before 1 of the following:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing.

(b) If the purchase-money security interest is temporarily perfected without filing or possession under section 9312(6), before the beginning of the 20-day period thereunder.

(6) Except as otherwise provided in subsection (7), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in section 9327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(7) If more than 1 security interest qualifies for priority in the same collateral under subsection (1), (2), (4), or (6), 1 of the following applies:

(a) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral.

(b) In all other cases, section 9322(1) applies to the qualifying security interest.

Sec. 9325. (1) Except as otherwise provided in subsection (2), a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if all of the following are met:

(a) The debtor acquired the collateral subject to the security interest created by the other person.

(b) The security interest created by the other person was perfected when the debtor acquired the collateral.

(c) There is no period thereafter when the security interest is unperfected.

(2) Subsection (1) subordinates a security interest only if the security interest otherwise would have priority solely under section 9322(1) or 9324, or arose solely under section 2711(3) or 2A508(5).

Sec. 9326. (1) Subject to subsection (2), a security interest created by a new debtor that is perfected by a filed financing statement that is effective solely under section 9508 in collateral in that a new debtor has or acquires rights is subordinate to a security interest in the same collateral that is perfected other than by a filed financing statement that is effective solely under section 9508.

(2) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under section 9508. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

Sec. 9327. The following rules govern priority among conflicting security interests in the same deposit account:

(a) A security interest held by a secured party having control of the deposit account under section 9104 has priority over a conflicting security interest held by a secured party that does not have control.

(b) Except as otherwise provided in subdivisions (c) and (d), security interests perfected by control under section 9314 rank according to priority in time of obtaining control.

(c) Except as otherwise provided in subdivision (d), a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(d) A security interest perfected by control under section 9104(1)(c) has priority over a security interest held by the bank with which the deposit account is maintained.

Sec. 9328. The following rules govern priority among conflicting security interests in the same investment property:

(a) A security interest held by a secured party having control of investment property under section 9106 has priority over a security interest held by a secured party that does not have control of the investment property.

(b) Except as otherwise provided in subdivisions (c) and (d), conflicting security interests held by secured parties each of which has control under section 9106 rank according to priority in time of 1 of the following:

(i) If the collateral is a security, obtaining control.

(ii) If the collateral is a security entitlement carried in a securities account, according to 1 of the following:

(A) If the secured party obtained control under section 8106(4)(a), the secured party's becoming the person for which the securities account is maintained.

(B) If the secured party obtained control under section 8106(4)(b), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account.

(C) If the secured party obtained control through another person under section 8106(4)(c), the time on which priority would be based under this paragraph if the other person were the secured party.

(iii) If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in section 9106(2)(b) with respect to commodity contracts carried or to be carried with the commodity intermediary.

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

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

(e) A security interest in a certificated security in registered form that is perfected by taking delivery under section 9313(1) and not by control under section 9314 has priority over a conflicting security interest perfected by a method other than control.

(f) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary that are perfected without control under section 9106 rank equally.

(g) In all other cases, priority among conflicting security interests in investment property is governed by sections 9322 and 9323.

Sec. 9329. The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(a) A security interest held by a secured party having control of the letter-of-credit right under section 9107 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(b) Security interests perfected by control under section 9314 rank according to priority in time of obtaining control.

Sec. 9330. (1) A purchaser of chattel paper has priority over a security interest in the chattel paper that is claimed merely as proceeds of inventory subject to a security interest if both of the following are met:

(a) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under section 9105.

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

(2) A purchaser of chattel paper has priority over a security interest in the chattel paper that is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under section 9105 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(3) Except as otherwise provided in section 9327, a purchaser having priority in chattel paper under subsection (1) or (2) also has priority in proceeds of the chattel paper to the extent that section 9322 provides for priority in the proceeds, or the proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(4) Except as otherwise provided in section 9331(1), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(5) For purposes of subsections (1) and (2), the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(6) For purposes of subsections (2) and (4), if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

Sec. 9331. (1) This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in articles 3, 7, and 8.

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

(3) Filing under this article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (1) and (2).

Sec. 9332. (1) A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

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

Sec. 9333. (1) As used in this section, "possessory lien" means an interest, other than a security interest or an agricultural lien, that meets all of the following:

(a) It secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business.

(b) It is created by statute or rule of law in favor of the person.

(c) Its effectiveness depends on the person's possession of the goods.

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

Sec. 9334. (1) A security interest under this article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this article in ordinary building materials incorporated into an improvement on land.

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

(3) In cases not governed by subsections (4) through (8), a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(4) Except as otherwise provided in subsection (8), a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and all of the following are met:

(a) The security interest is a purchase-money security interest.

(b) The interest of the encumbrancer or owner arises before the goods become fixtures.

(c) The security interest is perfected by a fixture filing before the goods become fixtures or within 20 days thereafter.

(5) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property in each of the following circumstances:

(a) If the debtor has an interest of record in the real property or is in possession of the real property, and the security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record and has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner.

(b) If before the goods become fixtures, the security interest is perfected by any method permitted by this article and the fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real property, or readily removable replacements of domestic appliances that are consumer goods.

(c) If the conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article.

(d) If the security interest is created in a manufactured home in a manufactured-home transaction and perfected pursuant to a statute described in section 9311(1)(b).

(6) A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if either of the following is met:

(a) The encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures.

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

(7) The priority of the security interest under subsection (6)(b) continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(8) A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (5) and (6), a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

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

Sec. 9335. (1) A security interest may be created in an accession and continues in collateral that becomes an accession.

(2) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(3) Except as otherwise provided in subsection (4), the other provisions of this part determine the priority of a security interest in an accession.

(4) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under section 9311(2).

(5) After default, subject to part 6 of this article, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(6) A secured party that removes an accession from other goods under subsection (5) shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Sec. 9336. (1) As used in this section, "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

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

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

(4) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (3) is perfected.

(5) Except as otherwise provided in subsection (6), the other provisions of this part determine the priority of a security interest that attaches to the product or mass under subsection (3).

(6) If more than 1 security interest attaches to the product or mass under subsection (3), the following rules determine priority:

(a) A security interest that is perfected under subsection (4) has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(b) If more than 1 security interest is perfected under subsection (4), the security interests rank equally in proportion to the value of the collateral at the time it became commingled goods.

Sec. 9337. If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this state issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate, both of the following apply:

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

(b) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under section 9311(2), after issuance of the certificate and without the conflicting secured party's knowledge of the security interests.

Sec. 9338. If a security interest or agricultural lien is perfected by a filed financing statement providing information described in section 9516(2)(e) that is incorrect at the time the financing statement is filed, all of the following apply:

(a) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information.

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

Sec. 9339. This article does not preclude subordination by agreement by a person entitled to priority.

SUBPART 4. RIGHTS OF BANK

Sec. 9340. (1) Except as otherwise provided in subsection (3), a bank with which a deposit account is maintained may exercise any right of recoupment or setoff against a secured party that holds a security interest in the deposit account.

(2) Except as otherwise provided in subsection (3), the application of this article to a security interest in a deposit account does not affect a right of recoupment or setoff of the secured party as to a deposit account maintained with the secured party.

(3) The exercise by a bank of a setoff against a deposit account is ineffective against a secured party that holds a security interest in the deposit account that is perfected by control under section 9104(1)(c), if the setoff is based on a claim against the debtor.

Sec. 9341. Except as otherwise provided in section 9340(3), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by 1 or more of the following:

(a) The creation, attachment, or perfection of a security interest in the deposit account.

(b) The bank's knowledge of the security interest.

(c) The bank's receipt of instructions from the secured party.

Sec. 9342. This article does not require a bank to enter into an agreement of the kind described in section 9104(1)(b), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

PART 4

RIGHTS OF THIRD PARTIES

Sec. 9401. (1) Except as otherwise provided in subsection (2) and sections 9406, 9407, 9408, and 9409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this article.

(2) An agreement between the debtor and secured party that prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

Sec. 9402. The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

Sec. 9403. (1) As used in this section, "value" has the meaning provided in section 3303(1).

(2) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment for value, in good faith, without notice of a claim of a property or possessory right to the property assigned, and without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under section 3305(1).

(3) Subsection (2) does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under section 3305(2).

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement, all of the following apply:

(a) The record has the same effect as if the record included such a statement.

(b) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(5) This section is subject to law other than this article that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(6) Except as otherwise provided in subsection (4), this section does not displace law other than this article that gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

Sec. 9404. (1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (2) through (5), the rights of an assignee are subject to all of the following:

(a) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract.

(b) Any other defense or claim of the account debtor against the assignor that accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(2) Subject to subsection (3) and except as otherwise provided in subsection (4), the claim of an account debtor against an assignor may be asserted against an assignee under subsection (1) only to reduce the amount the account debtor owes.

(3) This section is subject to law other than this article that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(5) This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 9405. (1) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (2) through (4).

(2) Subsection (1) applies to the extent that the right to payment or a part thereof under an assigned contract has not been fully earned by performance, or to the extent that the right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under section 9406(1).

(3) This section is subject to law other than this article that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 9406. (1) Subject to subsections (2) through (9), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(2) Subject to subsection (8), notification is ineffective under subsection (1) if 1 or more of the following apply:

(a) If notification does not reasonably identify the rights assigned.

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article.

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if 1 or more of the following occur:

(i) Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee.

(ii) A portion has been assigned to another assignee.

(iii) The account debtor knows that the assignment to that assignee is limited.

(3) Subject to subsection (8), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (1).

(4) Except as otherwise provided in subsection (5) and sections 2A303 and 9407, and subject to subsection (8), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it does 1 or more of the following:

(a) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note.

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(5) Subsection (4) does not apply to the following:

(a) A claim or right to receive an amount that would be excluded from gross income under section 104(a)(1) or (2) of the internal revenue code of 1986, 26 U.S.C. 104.

(b) A claim or right to receive benefits from a special needs trust. For purposes of this subdivision, a "special needs trust" is a trust described in section 1917(d)(4)(A), (B), or (C) of title XIX of the social security act, 42 U.S.C. 1396p.

(c) The sale of a payment intangible or promissory note.

(6) Except as otherwise provided in sections 2A303 and 9407 and subject to subsections (8) and (9), a rule of law, statute, or regulation, that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation does 1 or more of the following:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper.

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(7) Subject to subsection (8), an account debtor may not waive or vary its option under subsection (2)(c).

(8) This section is subject to law other than this article that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(9) This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 9407. (1) Except as otherwise provided in subsection (2), a term in a lease agreement is ineffective to the extent that it does 1 or more of the following:

(a) Prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods.

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(2) Except as otherwise provided in section 2A303(7), a term described in subsection (1)(b) is effective to the extent that there is 1 or more of the following:

(a) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term.

(b) A delegation of a material performance of either party to the lease contract in violation of the term.

(3) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of section 2A303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

Sec. 9408. (1) Except as otherwise provided in subsection (2) or (4), a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term does 1 or more of the following:

(a) Would impair the creation, attachment, or perfection of a security interest.

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(2) Subsection (1) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(3) Except as otherwise provided in subsection (4), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation does 1 or more of the following:

(a) Would impair the creation, attachment, or perfection of a security interest.

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) would be effective under law other than this article but is ineffective under subsection (1) or (3), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible is not or does not do all of the following:

(a) Is not enforceable against the person obligated on the promissory note or the account debtor.

(b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor.

(c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party.

(d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible.

(e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor.

(f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(5) Subsections (1) and (3) do not apply to either of the following:

(a) A claim or right to receive an amount that would be excluded from gross income under section 104(a)(1) or (2) of the internal revenue code of 1986, 26 U.S.C. 104.

(b) A claim or right to receive benefits from a special needs trust. For purposes of this subdivision, a "special needs trust" is a trust described in section 1917(d)(4)(A), (B), or (C) of title XIX of the social security act, 42 U.S.C. 1396p.

Sec. 9409. (1) A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit that prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice does 1 or more of the following:

(a) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right.

(b) Provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(2) To the extent that a term in a letter of credit is ineffective under subsection (1) but would be effective under law other than this article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right, the term is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary, imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary, and does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

PART 5

FILING

SUBPART 1. FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT

Sec. 9501. (1) Except as otherwise provided in subsection (2), the office in which to file a financing statement to perfect the security interest or agricultural lien is 1 of the following:

(a) The office designated for the filing or recording of a record of a mortgage on the related real property, if the collateral is as-extracted collateral or timber to be cut, or the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures.

(b) The office of secretary of state in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(2) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

(3) Any financing statement filed under subsection (1)(a) with a register of deeds and any continuation statement, termination statement, amendment, or assignment relating to the financing statement and meeting the formal requisites of this part shall be recorded by the register of deeds, notwithstanding the provisions for witnessing and acknowledging instruments to be recorded in the real property records contained in section 47 of 1846 RS 65, MCL 565.47.

Sec. 9502. (1) Subject to subsection (2), a financing statement is sufficient only if it does all of the following:

(a) Provides the name of the debtor.

(b) Provides the name of the secured party or a representative of the secured party.

(c) Indicates the collateral covered by the financing statement.

(2) Except as otherwise provided in section 9501(2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or that is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (1) and also do all of the following:

(a) Indicate that it covers this type of collateral.

(b) Indicate that it is to be recorded in the real property records.

(c) Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property.

(d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(3) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if all of the following apply:

(a) The record indicates the goods or accounts that it covers.

(b) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut.

(c) The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records.

(d) The record is duly recorded.

(4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

Sec. 9503. (1) A financing statement sufficiently provides the name of the debtor if it meets all of the following that apply to the debtor:

(a) If the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized.

(b) If the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate.

(c) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement does both of the following:

(i) Provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having 1 or more of the same settlors.

(ii) Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust.

(d) In other cases, satisfies 1 of the following:

(i) If the debtor has a name, only if it provides the individual or organizational name of the debtor.

(ii) If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) is not rendered ineffective by the absence of 1 or more of the following:

(a) A trade name or other name of the debtor.

(b) Unless required under subsection (1)(d)(ii), names of partners, members, associates, or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than 1 debtor and the name of more than 1 secured party.

Sec. 9504. A financing statement sufficiently indicates the collateral that it covers if the financing statement provides 1 of the following:

(a) A description of the collateral pursuant to section 9108.

(b) An indication that the financing statement covers all assets or all personal property.

Sec. 9505. (1) A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in section 9311(1), using the terms "consignor", "consignee", "lessor", "lessee", "bailor", "bailee", "licensor", "licensee", "owner", "registered owner", "buyer", "seller", or words of similar import, instead of the terms "secured party" and "debtor".

(2) This part applies to the filing of a financing statement under subsection (1) and, as appropriate, to compliance that is equivalent to filing a financing statement under section 9311(2), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

Sec. 9506. (1) A financing statement substantially satisfying the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(2) Except as otherwise provided in subsection (3), a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 9503(1) is seriously misleading.

(3) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 9503(1), the name provided does not make the financing statement seriously misleading.

(4) For purposes of section 9508(2), the "debtor's correct name" in subsection (3) means the correct name of the new debtor.

Sec. 9507. (1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(2) Except as otherwise provided in subsection (3) and section 9508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under section 9506.

(3) If a debtor so changes its name that a filed financing statement becomes seriously misleading under section 9506, both of the following apply:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within 4 months after, the change.

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the change, unless an amendment to the financing statement that renders the financing statement not seriously misleading is filed within 4 months after the change.

Sec. 9508. (1) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(2) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (1) to be seriously misleading under section 9506, both of the following apply:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within 4 months after, the new debtor becomes bound under section 9203(4).

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than 4 months after the new debtor becomes bound under section 9203(4) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(3) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under section 9507(1).

Sec. 9509. (1) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if 1 of the following occurs:

(a) The debtor authorizes the filing in an authenticated record or pursuant to subsection (2) or (3).

(b) The person holds an agricultural lien that has become effective at time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(2) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering both of the following:

(a) The collateral described in the security agreement.

(b) Property that becomes collateral under section 9315(1)(b), whether or not the security agreement expressly covers proceeds.

(3) By acquiring collateral in which a security interest or agricultural lien continues under section 9315(1)(a), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under section 9315(1)(b).

(4) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if 1 of the following applies:

(a) The secured party of record authorizes the filing.

(b) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by section 9513(1) or (3), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(5) If there is more than 1 secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (4).

Sec. 9510. (1) A filed record is effective only to the extent that it was filed by a person that may file it under section 9509.

(2) A record authorized by 1 secured party of record does not affect the financing statement with respect to another secured party of record.

(3) A continuation statement that is not filed within the 6-month period prescribed by section 9515(4) is ineffective.

Sec. 9511. (1) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under section 9514(1), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(2) If an amendment of a financing statement that provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under section 9514(2), the assignee named in the amendment is a secured party of record.

(3) A person remains a secured party of record until the filing of an amendment of the financing statement that deletes the person.

Sec. 9512. (1) Subject to section 9509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (5), otherwise amend the information provided in, a financing statement by filing an amendment that does both of the following:

(a) Identifies, by its file number, and, if applicable, by liber and page, the initial financing statement to which the amendment relates.

(b) If the amendment relates to an initial financing statement filed or recorded in a filing office described in section 9501(1)(a), provides the date that the initial financing statement was filed or recorded and the information specified in section 9502(2).

(2) Except as otherwise provided in section 9515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(3) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(4) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(5) An amendment is ineffective to the extent 1 or more of the following apply to it:

(a) It purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement.

(b) It purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

Sec. 9513. (1) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and 1 or more of the following apply:

(a) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value.

(b) The debtor did not authorize the filing of the initial financing statement.

(2) To comply with subsection (1), a secured party shall cause the secured party of record to file the termination statement within 1 of the following periods:

(a) Within 1 month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value.

(b) If earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(3) In cases not governed by subsection (1), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if 1 or more of the following apply:

(a) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value.

(b) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation.

(c) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession.

(d) The debtor did not authorize the filing of the initial financing statement.

(4) Except as otherwise provided in section 9510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in section 9510, for purposes of sections 9519(7), 9522(1), and 9523(3), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

Sec. 9514. (1) Except as otherwise provided in subsection (3), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement providing the name and mailing address of the assignee as the name and address of the secured party.

(2) Except as otherwise provided in subsection (3), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement that does all of the following:

(a) Identifies, by its file number, the initial financing statement to which it relates.

(b) Provides the name of the assignor.

(c) Provides the name and mailing address of the assignee.

(3) An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under section 9502(3) may be made only by an assignment of record of the mortgage in the manner provided by law of this state other than this act.

Sec. 9515. (1) Except as otherwise provided in subsections (2), (5), (6), and (7), a filed financing statement is effective for a period of 5 years after the date of filing.

(2) Except as otherwise provided in subsections (5), (6), and (7), an initial financing statement filed in connection with a manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a manufactured-home transaction.

(3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (4). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within 6 months before the expiration of the 5-year period specified in subsection (1) or the 30-year period specified in subsection (2), whichever is applicable.

(5) Except as otherwise provided in section 9510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of 5 years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the 5-year period, the financing statement lapses in the same manner as provided in subsection (3), unless, before the lapse, another continuation statement is filed pursuant to subsection (4). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(7) A record of a mortgage that is effective as a financing statement filed as a fixture filing under section 9502(3) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

Sec. 9516. (1) Except as otherwise provided in subsection (2), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because of 1 or more of the following:

(a) The record is not communicated by a method or medium of communication authorized by the filing office.

(b) An amount equal to or greater than the applicable filing fee is not tendered.

(c) The filing office is unable to index the record because of 1 or more of the following:

(i) In the case of an initial financing statement, the record does not provide a name for the debtor.

(ii) In the case of an amendment or correction statement, the record does not identify the initial financing statement as required by section 9512 or 9518, as applicable, or identifies an initial financing statement whose effectiveness has lapsed under section 9515.

(iii) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual that was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name.

(iv) In the case of a record filed or recorded in the filing office described in section 9501(1)(a), the record does not provide a sufficient description of the real property to which it relates.

(d) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record.

(e) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not provide or indicate 1 or more of the following:

(i) Provide a mailing address for the debtor.

(ii) Indicate whether the debtor is an individual or an organization.

(iii) If the financing statement indicates that the debtor is an organization, provide 1 or more of the following:

(A) A type of organization for the debtor.

(B) A jurisdiction of organization for the debtor.

(C) An organizational identification number for the debtor or indicate that the debtor has none.

(f) In the case of an assignment reflected in an initial financing statement under section 9514(1) or an amendment filed under section 9514(2), the record does not provide a name and mailing address for the assignee.

(g) In the case of a continuation statement, the record is not filed within the 6-month period prescribed by section 9515(4).

(3) For purposes of subsection (2), both of the following apply:

(a) A record does not provide information if the filing office is unable to read or decipher the information.

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 9512, 9514, or 9518, is an initial financing statement.

(4) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (2), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

Sec. 9517. The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

Sec. 9518. (1) A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(2) A correction statement must do all of the following:

(a) Identify the record to which it relates by both of the following:

(i) The file number assigned to the initial financing statement to which the record relates.

(ii) If the correction statement relates to a record filed or recorded in a filing office described in section 9501(1)(a), the date that the initial financing statement was filed or recorded and the information specified in section 9502(2).

(b) Indicate that it is a correction statement.

(c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(3) The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

SUBPART 2. DUTIES AND OPERATION OF FILING OFFICE

Sec. 9519. (1) For each record filed in a filing office, the filing office shall do all of the following:

(a) Assign a unique number to the filed record.

(b) Create a record that bears the number assigned to the filed record and the date and time of filing.

(c) Maintain the filed record for public inspection.

(d) Index the filed record in accordance with subsections (3), (4), and (5).

(2) A file number assigned after January 1, 2002 must include a digit that is mathematically derived from or related to the other digits of the file number, and aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

(3) Except as otherwise provided in subsections (4) and (5), the filing office shall do both of the following:

(a) Index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement.

(b) Index a record that provides a name of a debtor that was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(4) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, it must be filed for record and the filing office shall index it under both of the following:

(a) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described.

(b) To the extent that the law of this state provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(5) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under section 9514(1) or an amendment filed under section 9514(2) under both of the following:

(a) Under the name of the assignor as grantor.

(b) To the extent that the law of this state provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(6) The filing office shall maintain a capability to do both of the following:

(a) To retrieve a record by the name of the debtor and by 1 of the following:

(i) If the filing office is described in section 9501(1)(a), by the file number assigned to the initial financing statement to which the record relates and the date that the record was filed or recorded.

(ii) If the filing office is described in section 9501(1)(b), by the file number assigned to the initial financing statement to which the record relates.

(b) To associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(7) The filing office shall not remove a debtor's name from the index until 1 year after the effectiveness of a financing statement naming the debtor lapses under section 9515 with respect to all secured parties of record.

(8) The filing office shall perform the acts required by subsections (1) through (5) at the time and in the manner prescribed by filing-office rule, but not later than 2 business days after the filing office receives the record in question.

(9) Subsections (2) and (8) do not apply to a filing office described in section 9501(1)(a).

Sec. 9520. (1) A filing office shall refuse to accept a record for filing for a reason set forth in section 9516(2) and may refuse to accept a record for filing only for a reason set forth in section 9516(2).

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but, in the case of a filing office described in section 9501(1)(b), in no event more than 2 business days after the filing office receives the record.

(3) A filed financing statement satisfying section 9502(1) and (2) is effective, even if the filing office is required to refuse to accept it for filing under subsection (1). However, section 9338 applies to a filed financing statement providing information described in section 9516(2)(e) that is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than 1 debtor, this part applies as to each debtor separately.

Sec. 9521. (1) A filing office that accepts written records for filing shall not refuse to accept a written initial financing statement in the following form, except for a reason set forth in section 9516(2):

UCC FINANCING STATEMENT
FOLLOW INSTRUCTIONS (FRONT AND BACK) CAREFULLY

A. NAME AND PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

_____ THE ABOVE SPACE IS FOR
_____ FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only 1 debtor name (1a or 1b) -
do not abbreviate or combine names

1a. ORGANIZATION'S NAME

OR 1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

1d. TAX ID. NO. SSN OR EIN	ADD'L INFO. RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION
_____	_____	_____

1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATIONAL ID. No., if any	[] NONE
_____	_____	

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only 1 debtor name (2a or 2b) - do not
abbreviate or combine names

2a. ORGANIZATION'S NAME

OR 2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2d. TAX ID. NO. SSN OR EIN	ADD'L INFO. RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION
_____	_____	_____

2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID. No., if any	[] NONE
_____	_____	

3. SECURED PARTY'S NAME (or name of total assignee of assignor S/P) - insert only 1 secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR 3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION [if applicable]: ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR
☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING
6. ☐ This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.
Attach Addendum [if applicable]
7. Check to REQUEST SEARCH REPORT(S) on Debtor(s)
☐ All Debtors ☐ Debtor 1 ☐ Debtor 2
[ADDITIONAL FEE] [optional]

8. OPTIONAL FILER REFERENCE DATA

FILING OFFICE COPY - NATIONAL UCC FILING STATEMENT (FORM UCC 1) (REV. 07/29/98)

[BACK OF FORM]

UCC FINANCING STATEMENT ADDENDUM

Follow instructions (front and back) CAREFULLY.

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

OR 9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR
FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only 1 name (11a or 11b) - do not abbreviate
or combine names

11a. ORGANIZATION'S NAME

OR 11b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

11c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

11d. TAX ID. NO.
SSN OR EIN

ADD'L INFO. RE
ORGANIZATION
DEBTOR

11e. TYPE OF ORGANIZATION

11f. JURISDICTION OF ORGANIZATION

11g. ORGANIZATIONAL ID. No., if any

☐ NONE

12. ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - insert only 1 name (12a or 12b).

12a. ORGANIZATION'S NAME

OR 12b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

12c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a
 ☐ fixture filing.

14. Description of real estate:

15. Name and address of a RECORD OWNER of the above-described real estate (if Debtor does not have record
 interest):

16. Additional collateral description:

17. Check only if applicable and check only 1 box:

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only 1 box:

☐ Debtor is a TRANSMITTING UTILITY

☐ Filed in connection with a Manufactured-Home Transaction - effective 30 years

☐ Filed in connection with a Public-Finance Transaction - effective 30 years

FILING OFFICE COPY - NATIONAL UCC FILING STATEMENT (FORM UCC 1Ad) (REV. 07/29/98)

(2) A filing office that accepts written records for filing shall not refuse to accept a written financing statement
amendment in the following form, except for a reason set forth in section 9516(2):

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (FRONT AND BACK) CAREFULLY

A. NAME AND PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR
FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NO.

1b. ☐ This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL
 ESTATE RECORDS.

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to
 security interest(s) of the Secured Party authorizing this Termination Statement.

3. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s)
 of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by
 applicable law.

4. ☐ ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and
 also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only 1 of these 2 boxes. Also check 1 of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c.

☐ DELETE name: Give record name to be deleted in item 6a or 6b.

☐ ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME

OR 6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR 7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. TAX ID. NO. SSN OR EIN	ADD'L INFO. RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION
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7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID. No., if any	☐ NONE
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8. AMENDMENT (COLLATERAL CHANGE): check only 1 box

Describe collateral ☐ deleted or ☐ added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

OR 9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. OPTIONAL FILE REFERENCE DATA

[BACK OF FORM]

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

11. INITIAL FINANCING STATEMENT FILE NO. (same as item 1a on Amendment form)

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT (same as item 9 on Amendment form)

12a. ORGANIZATION'S NAME

OR 12b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

13. USE THIS SPACE FOR ADDITIONAL INFORMATION

THIS SPACE IS FOR

FILING OFFICE USE ONLY

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT AMENDMENT ADDENDUM
(FORM UCC3Ad) (REV. 07/29/98)

(3) A form that a filing office may not refuse to accept under subsection (1) or (2) must conform to the format prescribed for the form by the National Conference of Commissioners.

Sec. 9522. (1) The filing office shall maintain a record of the information provided in a filed financing statement for at least 1 year after the effectiveness of the financing statement has lapsed under section 9515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and 1 of the following:

(a) If the record was filed or recorded in the filing office described in section 9501(1)(a), by using the file number assigned to the initial financing statement to which the record relates and the date that the record was filed or recorded.

(b) If record was filed in the filing office described in section 9501(1)(b), by using the file number assigned to the initial financing statement to which the record relates.

(2) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement that complies with subsection (1).

Sec. 9523. (1) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to section 9519(1)(a) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead do both of the following:

(a) Note upon the copy the number assigned to the record pursuant to section 9519(1)(a) and the date and time of the filing of the record.

(b) Send the copy to the person.

(2) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides all of the following:

(a) The information in the record.

(b) The number assigned to the record pursuant to section 9519(1)(a).

(c) The date and time of the filing of the record.

(3) The filing office shall communicate or otherwise make available in a record 1 or more of the following information to any person that requests it:

(a) Whether there is on file on a date and time specified by the filing office, but not a date earlier than 3 business days before the filing office receives the request, any financing statement that meets all of the following:

(i) Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request.

(ii) Has not lapsed under section 9515 with respect to all secured parties of record.

(iii) If the request so states, has lapsed under section 9515 and a record of which is maintained by the filing office under section 9522(1).

(b) The date and time of filing of each financing statement.

(c) The information provided in each financing statement.

(4) In complying with its duty under subsection (3), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate or another record that can be admitted into evidence in the courts of this state without extrinsic evidence of its authenticity.

(5) The filing office shall perform the acts required by subsections (1) through (4) at the time and in the manner prescribed by filing-office rule, but, in the case of a filing office described in section 9501(1)(b), not later than 2 business days after the filing office receives the request.

(6) At least weekly, at the per record rate under section 9525, the filing office shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part, in every medium from time to time available to the filing office.

Sec. 9524. Delay by the filing office beyond a time limit prescribed by this part is excused if both of the following apply:

(a) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office.

(b) The filing office exercises reasonable diligence under the circumstances.

Sec. 9525. (1) Except as otherwise provided in subsection (3), the fee for filing and indexing a record under this part is \$10.00, plus 1 or more of the following, if applicable:

(a) If the record is a financing statement in a form other than the form contained in section 9521(1), or the record is a financing statement amendment in a form other than the form contained in section 9521(2), an additional fee of \$7.00.

(b) If the record contains more than 100 pages, an additional fee of \$12.00.

(c) If the filing office is required to index more than 2 names, an additional fee of \$10.00 for each name more than 2 that the filing office is required to index.

(2) A filing office shall charge a person a fee for responding to a request for a search of the records filed with a filing office concerning a debtor, including issuance of a certificate describing each presently effective record filed concerning the debtor if requested. The fee is \$6.00, plus 1 or more of the following, if applicable:

(a) If the person requests a certificate and the search discloses more than 100 presently effective records filed concerning the debtor, an additional fee of \$6.00.

(b) If the person requests expediting of the regular search process, an additional fee of \$25.00.

(c) If the person requests copies of the presently effective records disclosed by the search, an additional fee of \$2.00 per page.

(d) If the filing office is the secretary of state and the person requests that the secretary of state include an impression of the official seal of the secretary of state on the certificate, an additional fee of \$6.00.

(3) This section does not require a fee with respect to a record of a mortgage that is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under section 9502(3). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

Sec. 9526. (1) The secretary of state shall adopt and publish rules to implement this article. The filing-office rules must be consistent with this article and adopted and published in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the secretary of state, so far as is consistent with the purposes, policies, and provisions of this article, in adopting, amending, and repealing filing-office rules, shall do all of the following:

(a) Consult with filing offices in other jurisdictions that enact substantially this part.

(b) Consult the most recent version of the model rules promulgated by the international association of corporate administrators or any successor organization.

(c) Take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.

Sec. 9527. The secretary of state shall report annually to the governor and legislature on the operation of the filing office. The report must contain a statement of the extent to which the filing-office rules are not in harmony with the rules of filing offices in other jurisdictions that enact substantially this part and the reasons for these variations, and the filing-office rules are not in harmony with the most recent version of the model rules promulgated by the international association of corporate administrators, or any successor organization, and the reasons for these variations.

PART 6

DEFAULT

SUBPART 1. DEFAULT AND ENFORCEMENT OF SECURITY INTEREST

Sec. 9601. (1) After default, a secured party has the rights provided in this part and, except as otherwise provided in section 9602, those provided by agreement of the parties. A secured party may do 1 or more of the following:

(a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure.

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

(2) A secured party in possession of collateral or control of collateral under section 9104, 9105, 9106, or 9107 has the rights and duties provided in section 9207.

(3) The rights under subsections (1) and (2) are cumulative and may be exercised simultaneously.

(4) Except as otherwise provided in subsection (7) and section 9605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of the following:

(a) The date of perfection of the security interest or agricultural lien in the collateral.

(b) The date of filing a financing statement covering the collateral.

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

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

(7) Except as otherwise provided in section 9607(3), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

Sec. 9602. Except as otherwise provided in section 9624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

(a) Section 9207(2)(d)(iii), which deals with use and operation of the collateral by the secured party.

(b) Section 9210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account.

(c) Section 9607(3), which deals with collection and enforcement of collateral.

(d) Sections 9608(1) and 9615(3) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition.

(e) Sections 9608(1) and 9615(4) to the extent that they require accounting for or payment of surplus proceeds of collateral.

(f) Section 9609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace.

(g) Sections 9610(2), 9611, 9613, and 9614, which deal with disposition of collateral.

(h) Section 9615(6), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor.

(i) Section 9616, which deals with explanation of the calculation of a surplus or deficiency.

(j) Sections 9620, 9621, and 9622, which deal with acceptance of collateral in satisfaction of obligation.

(k) Section 9623, which deals with redemption of collateral.

(l) Section 9624, which deals with permissible waivers.

(m) Sections 9625 and 9626, which deal with the secured party's liability for failure to comply with this article.

Sec. 9603. (1) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in section 9602 if the standards are not manifestly unreasonable.

(2) Subsection (1) does not apply to the duty under section 9609 to refrain from breaching the peace.

Sec. 9604. (1) If a security agreement covers both personal and real property, a secured party may do either of the following:

(a) Proceed under this part as to the personal property without prejudicing any rights with respect to the real property.

(b) Proceed as to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part do not apply.

(2) Subject to subsection (3), if a security agreement covers goods that are or become fixtures, a secured party may do either of the following:

(a) Proceed under this part.

(b) Proceed in accordance with the rights with respect to real property, in which case the other provisions of this part do not apply.

(3) Subject to the other provisions of this part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property.

(4) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Sec. 9605. A secured party does not owe a duty based on its status as secured party to either of the following:

(a) To a person that is a debtor or obligor, unless the secured party knows all of the following:

(i) That the person is a debtor or obligor.

(ii) The identity of the person.

(iii) How to communicate with the person.

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows both of the following:

(i) That the person is a debtor.

(ii) The identity of the person.

Sec. 9606. For purposes of this part, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

Sec. 9607. (1) If so agreed, and in any event after default, a secured party may do 1 or more of the following:

(a) Notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party.

(b) Take any proceeds to which the secured party is entitled under section 9315.

(c) Enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral.

(d) If it holds a security interest in a deposit account perfected by control under section 9104(1)(a), apply the balance of the deposit account to the obligation secured by the deposit account.

(e) If it holds a security interest in a deposit account perfected by control under section 9104(1)(b) or (c), instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(2) If necessary to enable a secured party to exercise under subsection (1)(c) the right of a debtor to enforce a mortgage nonjudicially, the secured party may record both of the following in the office in which a record of the mortgage is recorded:

(a) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage.

(b) The secured party's sworn affidavit in recordable form stating that a default has occurred and the secured party is entitled to enforce the mortgage nonjudicially.

(3) A secured party shall proceed in a commercially reasonable manner if the secured party meets both of the following:

(a) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral.

(b) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(4) A secured party may deduct from the collections made pursuant to subsection (3) reasonable expenses of collection and enforcement, including reasonable attorney fees and legal expenses incurred by the secured party.

(5) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

Sec. 9608. (1) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(a) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under section 9607 in the following order to:

(i) The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the secured party.

(ii) The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made.

(iii) The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under subdivision (a)(iii).

(c) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under section 9607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(2) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

Sec. 9609. (1) After default, a secured party may do 1 or more of the following:

(a) Take possession of the collateral.

(b) Without removal, render equipment unusable and dispose of collateral on a debtor's premises under section 9610.

(2) A secured party may proceed under subsection (1) either pursuant to judicial process, or without judicial process if it proceeds without breach of the peace.

(3) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party that is reasonably convenient to both parties.

Sec. 9610. (1) After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(2) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by 1 or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) A secured party may purchase collateral either at a public disposition, or at a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(4) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(5) A secured party may disclaim or modify warranties under subsection (4) either in a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract

of disposition, or by communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(6) A record is sufficient to disclaim warranties under subsection (5) if it indicates “There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition” or uses words of similar import.

Sec. 9611. (1) As used in this section, “notification date” means the earlier of the date on which 1 of the following occurs:

(a) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition.

(b) The debtor and any secondary obligor waive the right to notification.

(2) Except as otherwise provided in subsection (4), a secured party that disposes of collateral under section 9610 shall send to the persons specified in subsection (3) a reasonable authenticated notification of disposition.

(3) To comply with subsection (2), the secured party shall send an authenticated notification of disposition to all of the following:

(a) The debtor.

(b) Any secondary obligor.

(c) If the collateral is other than consumer goods, all of the following, as applicable:

(i) Any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral.

(ii) Any other secured party or lienholder that, 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that identified the collateral, was indexed under the debtor’s name as of that date, and was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date.

(iii) Any other secured party that, 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 9311(1).

(4) Subsection (2) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(5) A secured party complies with the requirement for notification prescribed by subsection (3)(c)(ii) if the secured party does both of the following:

(a) Not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor’s name in the office indicated in subsection (3)(c)(ii).

(b) Before the notification date, 1 of the following applies:

(i) The secured party did not receive a response to the request for information.

(ii) The secured party received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

Sec. 9612. (1) Except as otherwise provided in subsection (2), whether a notification is sent within a reasonable time is a question of fact.

(2) In a transaction other than a consumer transaction, a notification of disposition sent after default and 10 days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

Sec. 9613. Except in a consumer-goods transaction, the following rules apply:

(a) The contents of a notification of disposition are sufficient if the notification does all of the following:

(i) Describes the debtor and the secured party.

(ii) Describes the collateral that is the subject of the intended disposition.

(iii) States the method of intended disposition.

(iv) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting.

(v) States the time and place of a public disposition or the time after which any other disposition is to be made.

(b) Whether the contents of a notification that lacks any of the information specified in subdivision (a) are nevertheless sufficient is a question of fact.

(c) The contents of a notification providing substantially the information specified in subdivision (a) are sufficient, even if the notification includes information not specified by that paragraph or minor errors that are not seriously misleading.

(d) A particular phrasing of the notification is not required.

(e) The following form of notification and the form appearing in section 9614(c), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: [Name of debtor, obligor, or other person to which the notification is sent]

From: [Name, address, and telephone number of secured party]

Name of Debtor(s): [Include only if debtor(s) are not an addressee]

[For a public disposition:]

We will sell [or lease or license, as applicable] the [describe collateral] [to the highest qualified bidder] in public as follows:

Day and Date: _____

Time: _____

Place: _____

[For a private disposition:]

We will sell [or lease or license, as applicable] the [describe collateral] privately sometime after [day and date].

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell [or lease or license, as applicable] [for a charge of \$_____]. You may request an accounting by calling us at [telephone number].

[End of Form]

Sec. 9614. In a consumer-goods transaction, the following rules apply:

(a) A notification of disposition must provide all of the following information:

(i) The information specified in section 9613(a).

(ii) A description of any liability for a deficiency of the person to which the notification is sent.

(iii) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under section 9623 is available.

(iv) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(b) A particular phrasing of the notification is not required.

(c) The following form of notification, when completed, provides sufficient information:

[Name and address of secured party]

[Date]

NOTICE OF OUR PLAN TO SELL PROPERTY

[Name and address of any obligor who is also a debtor]

Subject: [Identification of Transaction]

We have your [describe collateral], because you broke promises in our agreement.

[For a public disposition:]

We will sell [describe collateral] at public sale. A sale could include a lease or license. The sale will be held as follows:

Date: _____

Time: _____

Place: _____

You may attend the sale and bring bidders if you want.

[For a private disposition:]

We will sell [describe collateral] at private sale sometime after [date]. A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you [will or will not, as applicable] still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at [telephone number].

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at [telephone number] [or write us at [secured party's address]] and request a written explanation. [We will charge you \$_____ for the explanation if we sent you another written explanation of the amount you owe us within the last 6 months.]

If you need more information about the sale, call us at [telephone number] [or write us at [secured party's address]].

We are sending this notice to the following other people who have an interest in [describe collateral] or who owe money under your agreement: [Names of all other debtors and obligors, if any].

[End of Form]

(d) A notification in the form of subdivision (c) is sufficient, even if additional information appears at the end of the form.

(e) A notification in the form of subdivision (c) is sufficient, even if it includes errors in information not required by subdivision (a), unless the error is misleading with respect to rights arising under this article.

(f) If a notification under this section is not in the form of subdivision (c), law other than this article determines the effect of including information not required by subdivision (a).

Sec. 9615. (1) A secured party shall apply or pay over for application the cash proceeds of disposition under section 9610 in the following order:

(a) To the reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the secured party.

(b) To the satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made.

(c) To the satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if both of the following, if applicable, are met:

(i) The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed.

(ii) In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor.

(d) To a secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (1)(c).

(3) A secured party need not apply or pay over for application noncash proceeds of disposition under section 9610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (1) and permitted by subsection (3), both of the following apply:

(a) Unless subsection (1)(d) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus.

(b) The obligor is liable for any deficiency.

(5) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

(6) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if both of the following apply:

(a) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor.

(b) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(7) All of the following apply to a secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(a) The secured party takes the cash proceeds free of the security interest or other lien.

(b) The secured party is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien.

(c) The secured party is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

Sec. 9616. (1) As used in this section:

(a) “Explanation” means a writing that does all of the following:

(i) States the amount of the surplus or deficiency.

(ii) Provides an explanation in accordance with subsection (3) of how the secured party calculated the surplus or deficiency.

(iii) States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency.

(iv) Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(b) “Request” means a record that meets all of the following:

(i) Authenticated by a debtor or consumer obligor.

(ii) Requesting that the recipient provide an explanation.

(iii) Sent after disposition of the collateral under section 9610.

(2) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under section 9615, the secured party shall do both of the following:

(a) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and in accordance with both of the following:

(i) Sent before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency.

(ii) Sent within 14 days after receipt of a request.

(b) In the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party’s right to a deficiency.

(3) To comply with subsection (1)(a)(ii), a writing must provide the following information in the following order:

(a) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date, that is 1 of the following:

(i) If the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession.

(ii) If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition.

(b) The amount of proceeds of the disposition.

(c) The aggregate amount of the obligations after deducting the amount of proceeds.

(d) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney fees secured by the collateral that are known to the secured party and relate to the current disposition.

(e) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and that are not reflected in the amount in subdivision (a).

(f) The amount of the surplus or deficiency.

(4) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (1) is sufficient, even if it includes minor errors that are not seriously misleading.

(5) A debtor or consumer obligor is entitled without charge to 1 response to a request under this section during any 6-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (2)(a). The secured party may require payment of a charge not exceeding \$25.00 for each additional response.

Sec. 9617. (1) A secured party's disposition of collateral after default does all of the following:

- (a) Transfers to a transferee for value all of the debtor's rights in the collateral.
- (b) Discharges the security interest under which the disposition is made.
- (c) Discharges any subordinate security interest or other subordinate lien.

(2) A transferee that acts in good faith takes free of the rights and interests described in subsection (1), even if the secured party fails to comply with this article or the requirements of any judicial proceeding.

(3) If a transferee does not take free of the rights and interests described in subsection (1), the transferee takes the collateral subject to all of the following:

- (a) The debtor's rights in the collateral.
- (b) The security interest or agricultural lien under which the disposition is made.
- (c) Any other security interest or other lien.

Sec. 9618. (1) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after all of the following:

- (a) The secondary obligor receives an assignment of a secured obligation from the secured party.
- (b) The secondary obligor receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party.
- (c) The secondary obligor is subrogated to the rights of a secured party with respect to collateral.
- (2) An assignment, transfer, or subrogation described in subsection (1) results in both of the following:
 - (a) It is not a disposition of collateral under section 9610.
 - (b) It relieves the secured party of further duties under this article.

Sec. 9619. (1) As used in this section, "transfer statement" means a record authenticated by a secured party stating all of the following:

- (a) That the debtor has defaulted in connection with an obligation secured by specified collateral.
- (b) That the secured party has exercised its postdefault remedies with respect to the collateral.
- (c) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral.
- (d) The name and mailing address of the secured party, debtor, and transferee.

(2) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall do all of the following:

- (a) Accept the transfer statement.
- (b) Promptly amend its records to reflect the transfer.
- (c) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(3) A transfer of the record or legal title to collateral to a secured party under subsection (2) or otherwise is not of itself a disposition of collateral under this article and does not of itself relieve the secured party of its duties under this article.

Sec. 9620. (1) Except as otherwise provided in subsection (7), a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if all of the following are met:

- (a) The debtor consents to the acceptance under subsection (3).
- (b) The secured party does not receive, within the time set forth in subsection (4), a notification of objection to the proposal authenticated by 1 of the following:
 - (i) A person to which the secured party was required to send a proposal under section 9621.
 - (ii) Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal.

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance.

(d) Subsection (5) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to section 9624.

(2) A purported or apparent acceptance of collateral under this section is ineffective unless both of the following occur:

(a) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor.

(b) The conditions of subsection (1) are met.

(3) All of the following apply for purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default.

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party meets all of the following requirements:

(i) Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained.

(ii) In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures.

(iii) Does not receive a notification of objection authenticated by the debtor within 20 days after the proposal is sent.

(4) To be effective under subsection (1)(b), a notification of objection must be received by the secured party within or before 1 of the following:

(a) In the case of a person to which the proposal was sent pursuant to section 9621, within 20 days after notification was sent to that person.

(b) In other cases, 1 of the following:

(i) Within 20 days after the last notification was sent pursuant to section 9621.

(ii) If a notification was not sent, before the debtor consents to the acceptance under subsection (3).

(5) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to section 9610 within the time specified in subsection (6) if 1 of the following is met:

(a) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods.

(b) Sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(6) To comply with subsection (5), the secured party shall dispose of the collateral within 1 of the following:

(a) Within 90 days after taking possession.

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(7) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Sec. 9621. (1) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to all of the following:

(a) Any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral.

(b) Any other secured party or lienholder that, 10 days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that met all of the following:

(i) Identified the collateral.

(ii) Was indexed under the debtor's name as of that date.

(iii) Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date.

(c) Any other secured party that, 10 days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 9311(1).

(2) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (1).

Sec. 9622. (1) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures does all of the following:

- (a) Discharges the obligation to the extent consented to by the debtor.
 - (b) Transfers to the secured party all of a debtor's rights in the collateral.
 - (c) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien.
 - (d) Terminates any other subordinate interest.
- (2) A subordinate interest is discharged or terminated under subsection (1), even if the secured party fails to comply with this article.

Sec. 9623. (1) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(2) To redeem collateral, a person shall tender both of the following:

- (a) Fulfillment of all obligations secured by the collateral.
 - (b) The reasonable expenses and attorney fees described in section 9615(1)(a).
- (3) A redemption may occur at any time before a secured party has done 1 of the following:
- (a) Has collected collateral under section 9607.
 - (b) Has disposed of collateral or entered into a contract for its disposition under section 9610.
 - (c) Has accepted collateral in full or partial satisfaction of the obligation it secures under section 9622.

Sec. 9624. (1) A debtor or secondary obligor may waive the right to notification of disposition of collateral under section 9611 only by an agreement to that effect entered into and authenticated after default.

(2) A debtor may waive the right to require disposition of collateral under section 9620(5) only by an agreement to that effect entered into and authenticated after default.

(3) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under section 9623 only by an agreement to that effect entered into and authenticated after default.

SUBPART 2. NONCOMPLIANCE WITH ARTICLE

Sec. 9625. (1) If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(2) Subject to subsections (3), (4), and (6), a person is liable for damages in the amount of any loss caused by a failure to comply with this article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(3) Except as otherwise provided in section 9628, both of the following apply:

(a) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (2) for its loss.

(b) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus 10% of the principal amount of the obligation or the time-price differential plus 10% of the cash price.

(4) A debtor whose deficiency is eliminated under section 9626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under section 9626 may not otherwise recover under subsection (2) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(5) In addition to any damages recoverable under subsection (2), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover \$500.00 in each case from a person that does 1 or more of the following:

- (a) Fails to comply with section 9208.
- (b) Fails to comply with section 9209.
- (c) Files a record that the person is not entitled to file under section 9509(1).
- (d) Fails to cause the secured party of record to file or send a termination statement as required by section 9513(1) or (3).
- (e) Fails to comply with section 9616(2)(a) and whose failure is part of a pattern, or consistent with a practice, of noncompliance.
- (f) Fails to comply with section 9616(2)(b).

(6) A debtor or consumer obligor may recover damages under subsection (2) and, in addition, \$500.00 in each case from a person that, without reasonable cause, fails to comply with a request under section 9210. A recipient of a request under section 9210 that never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(7) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under section 9210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

Sec. 9626. (1) In an action arising from a transaction, other than a consumer transaction, in which the amount of a deficiency or surplus is in issue, the following rules apply:

(a) A secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(b) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

(c) Except as otherwise provided in section 9628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney fees exceeds the greater of 1 of the following:

(i) The proceeds of the collection, enforcement, disposition, or acceptance.

(ii) The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(d) For purposes of subdivision (c)(ii), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney fees unless the secured party proves that the amount is less than that sum.

(e) If a deficiency or surplus is calculated under section 9615(6), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(2) The limitation of the rules in subsection (1) to transactions other than consumer transactions is intended to leave to the court the determination of the proper rules in consumer transactions. The court may not infer from that limitation the nature of the proper rule in consumer transactions and may continue to apply established approaches.

Sec. 9627. (1) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(2) A disposition of collateral is made in a commercially reasonable manner if the disposition is made in the usual manner on any recognized market, at the price current in any recognized market at the time of the disposition, or otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(3) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved in a judicial proceeding, by a bona fide creditors' committee, by a representative of creditors, or by an assignee for the benefit of creditors.

(4) Approval under subsection (3) need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

Sec. 9628. (1) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person, both of the following apply:

(a) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this article.

(b) The secured party's failure to comply with this article does not affect the liability of the person for a deficiency.

(2) A secured party is not liable because of its status as secured party to either of the following:

(a) To a person that is a debtor or obligor, unless the secured party knows all of the following:

(i) That the person is a debtor or obligor.

(ii) The identity of the person.

(iii) How to communicate with the person.

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows both of the following:

- (i) That the person is a debtor.
- (ii) The identity of the person.

(3) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on 1 or more of the following:

- (a) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held.
- (b) An obligor's representation concerning the purpose for which a secured obligation was incurred.
- (4) A secured party is not liable to any person under section 9625(3)(b) for its failure to comply with section 9616.
- (5) A secured party is not liable under section 9625(3)(b) more than once with respect to any 1 secured obligation.

PART 7

TRANSITION

Sec. 9701. As used in this part, "this amendatory act" means the amendatory act that added this part.

Sec. 9702. (1) Except as otherwise provided in this part, this amendatory act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this amendatory act takes effect.

(2) Except as otherwise provided in subsection (3) and sections 9703 through 9709, both of the following apply:

(a) Transactions and liens that were not governed by this article before this amendatory act takes effect, were validly entered into or created before this amendatory act takes effect, and would be subject to this amendatory act if they had been entered into or created after this amendatory act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this amendatory act takes effect.

(b) The transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by this amendatory act or by the law that otherwise would apply if this amendatory act had not taken effect.

(3) This amendatory act does not affect an action, case, or proceeding commenced before this amendatory act takes effect.

Sec. 9703. (1) A security interest that is enforceable immediately before this amendatory act takes effect and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under this amendatory act if, when this amendatory act takes effect, the applicable requirements for enforceability and perfection under this amendatory act are satisfied without further action.

(2) Except as otherwise provided in section 9705, if, immediately before this amendatory act takes effect, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this amendatory act are not satisfied when this amendatory act takes effect, all of the following apply to the security interest:

(a) The security interest is a perfected security interest for 1 year after this amendatory act takes effect.

(b) The security interest remains enforceable thereafter only if the security interest becomes enforceable under section 9203 before the year expires.

(c) The security interest remains perfected thereafter only if the applicable requirements for perfection under this amendatory act are satisfied before the year expires.

Sec. 9704. All of the following apply to a security interest that is enforceable immediately before this amendatory act takes effect but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

(a) The security interest remains an enforceable security interest for 1 year after this amendatory act takes effect.

(b) The security interest remains enforceable thereafter if the security interest becomes enforceable under section 9203 when this amendatory act takes effect or within 1 year thereafter.

(c) The security interest becomes perfected under 1 of the following:

(i) Without further action, when this amendatory act takes effect if the applicable requirements for perfection under this amendatory act are satisfied before or at that time.

(ii) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

Sec. 9705. (1) If action, other than the filing of a financing statement, is taken before this amendatory act takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien

creditor had the security interest become enforceable before this amendatory act takes effect, the action is effective to perfect a security interest that attaches under this amendatory act within 1 year after this amendatory act takes effect. An attached security interest becomes unperfected 1 year after this amendatory act takes effect unless the security interest becomes a perfected security interest under this amendatory act before the expiration of that period.

(2) The filing of a financing statement before this amendatory act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this amendatory act.

(3) This amendatory act does not render ineffective an effective financing statement that, before this amendatory act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in section 9103 before this amendatory act takes effect. However, except as otherwise provided in subsections (4) and (5) and section 9706, the financing statement ceases to be effective at the earlier of the following:

(a) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed.

(b) June 30, 2006.

(4) The filing of a continuation statement after this amendatory act takes effect does not continue the effectiveness of the financing statement filed before this amendatory act takes effect. However, upon the timely filing of a continuation statement after this amendatory act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in part 3, the effectiveness of a financing statement filed in the same office in that jurisdiction before this amendatory act takes effect continues for the period provided by the law of that jurisdiction.

(5) Subsection (3)(b) applies to a financing statement that, before this amendatory act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in section 9103 before this amendatory act takes effect only to the extent that part 3 provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(6) A financing statement that includes a financing statement filed before this amendatory act takes effect and a continuation statement filed after this amendatory act takes effect is effective only to the extent that it satisfies the requirements of part 5 for an initial financing statement.

Sec. 9706. (1) The filing of an initial financing statement in the office specified in section 9501 continues the effectiveness of a financing statement filed before this amendatory act takes effect if all of the following apply:

(a) The filing of an initial financing statement in that office would be effective to perfect a security interest under this amendatory act.

(b) The pre-effective-date financing statement was filed in an office in another state or another office in this state.

(c) The initial financing statement satisfies subsection (3).

(2) The filing of an initial financing statement under subsection (1) continues the effectiveness of the pre-effective-date financing statement if both of the following apply:

(a) If the initial financing statement is filed before this amendatory act takes effect, for the period provided in section 9403 before this amendatory act takes effect with respect to a financing statement.

(b) If the initial financing statement is filed after this amendatory act takes effect, for the period provided in section 9515 with respect to an initial financing statement.

(3) To be effective for purposes of subsection (1), an initial financing statement must do all of the following:

(a) Satisfy the requirements of part 5 for an initial financing statement.

(b) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement.

(c) Indicate that the pre-effective-date financing statement remains effective.

Sec. 9707. (1) As used in this section, “pre-effective-date financing statement” means a financing statement filed before this amendatory act takes effect.

(2) After this amendatory act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in part 3. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(3) Except as otherwise provided in subsection (4), if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after this amendatory act takes effect only if 1 of the following is met:

- (a) The pre-effective-date financing statement and an amendment are filed in the office specified in section 9501.
- (b) An amendment is filed in the office specified in section 9501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies section 9706(3).
- (c) An initial financing statement that provides the information as amended and satisfies section 9706(3) is filed in the office specified in section 9501.
- (4) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under section 9705(4) and (6) or 9706.
- (5) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated after this amendatory act takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies section 9706(3) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in part 3 as the office in which to file a financing statement.

Sec. 9708. A person may file an initial financing statement or a continuation statement under this part if both of the following apply:

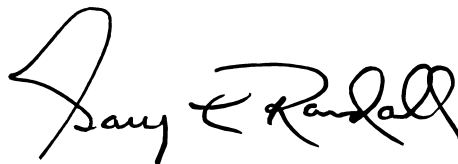
- (a) The secured party of record authorizes the filing.
- (b) The filing is necessary under this part to do 1 of the following:
 - (i) To continue the effectiveness of a financing statement filed before this amendatory act takes effect.
 - (ii) To perfect or continue the perfection of a security interest.

Sec. 9709. (1) This amendatory act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this amendatory act takes effect, this article as in effect before this amendatory act takes effect determines priority.

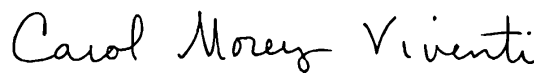
(2) For purposes of section 9322(1), the priority of a security interest that becomes enforceable under section 9203 of this amendatory act dates from the time this amendatory act takes effect if the security interest is perfected under this amendatory act by the filing of a financing statement before this amendatory act takes effect which would not have been effective to perfect the security interest under this article as in effect before this amendatory act takes effect. This subsection does not apply to conflicting security interests each of which is perfected by the filing of a financing statement described in this subsection.

Enacting section 1. This amendatory act takes effect July 1, 2001.

Enacting section 2. Sections 9112, 9113, 9114, 9115, 9116, 9408a, and 9410 of the uniform commercial code, 1962 PA 174, MCL 440.9112, 440.9113, 440.9114, 440.9115, 440.9116, 440.9408a, and 440.9410, are repealed.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

.....
Governor.