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2 94th General Assembly
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4

A Bill

HOUSE BILL 1588

5 By: Representative S. Meeks
6 By: Senator J. Dismang
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE UNIFORM COMMERCIAL CODE; AND FOR
10 OTHER PURPOSES.

Subtitle

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13
14 TO AMEND THE UNIFORM COMMERCIAL CODE.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 4-1-201(b), concerning the general
20 definitions in the Uniform Commercial Code, is amended to read as follows:

21 (b) Subject to definitions contained in other chapters of this
22 subtitle that apply to particular chapters or parts thereof:

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

26 (2) "Aggrieved party" means a party entitled to pursue a remedy.

27 (3) "Agreement", as distinguished from "contract", means the
28 bargain of the parties in fact, as found in their language or inferred from
29 other circumstances, including course of performance, course of dealing, or
30 usage of trade as provided in § 4-1-303.

31 (4) "Bank" means a person engaged in the business of banking and
32 includes a savings bank, savings and loan association, credit union, and
33 trust company.

34 (5) "Bearer" means a person in control of a negotiable
35 electronic document of title or a person in possession of a negotiable
36 instrument, negotiable tangible document of title, or certificated security



1 that is payable to bearer or indorsed in blank.

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

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

8 (8) "Burden of establishing" a fact means the burden of
9 persuading the trier of fact that the existence of the fact is more probable
10 than its nonexistence.

11 (9) "Buyer in ordinary course of business" means a person that
12 buys goods in good faith, without knowledge that the sale violates the rights
13 of another person in the goods, and in the ordinary course from a person,
14 other than a pawnbroker, in the business of selling goods of that kind. A
15 person buys goods in the ordinary course if the sale to the person comports
16 with the usual or customary practices in the kind of business in which the
17 seller is engaged or with the seller's own usual or customary practices. A
18 person that sells oil, gas, or other minerals at the wellhead or minehead is
19 a person in the business of selling goods of that kind. A buyer in ordinary
20 course of business may buy for cash, by exchange of other property, or on
21 secured or unsecured credit, and may acquire goods or documents of title
22 under a preexisting contract for sale. Only a buyer that takes possession of
23 the goods or has a right to recover the goods from the seller under Chapter 2
24 may be a buyer in ordinary course of business. "Buyer in ordinary course of
25 business" does not include a person that acquires goods in a transfer in bulk
26 or as security for or in total or partial satisfaction of a money debt.

27 (10) "Conspicuous", with reference to a term, means so written,
28 displayed, or presented that, based on the totality of the circumstances, a
29 reasonable person against which it is to operate ought to have noticed it.
30 Whether a term is "conspicuous" or not is a decision for the court.

31 ~~Conspicuous terms include the following:~~

32 ~~(A) a heading in capitals equal to or greater in size than~~
33 ~~the surrounding text, or in contrasting type, font, or color to the~~
34 ~~surrounding text of the same or lesser size; and~~

35 ~~(B) language in the body of a record or display in larger~~
36 ~~type than the surrounding text, or in contrasting type, font, or color to the~~

~~surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.~~

(11) "Consumer" means an individual who enters into a transaction primarily for personal, family, or household purposes.

(12) "Contract", as distinguished from "agreement", means the total legal obligation that results from the parties' agreement as determined by this subtitle as supplemented by any other applicable laws.

(13) "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.

(14) "Defendant" includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim.

(15) "Delivery", with respect to an electronic document of title, means voluntary transfer of control and, with respect to an instrument, a tangible document of title, or an authoritative tangible copy of a record evidencing chattel paper, means voluntary transfer of possession.

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

(16A) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

(18) "Fungible goods" means:

1 (A) goods of which any unit, by nature or usage of trade,
2 is the equivalent of any other like unit; or

3 (B) goods that by agreement are treated as equivalent.

4 (19) "Genuine" means free of forgery or counterfeiting.

5 (20) "Good faith," except otherwise provided in Chapter 5, means
6 honesty in fact and the observance of reasonable commercial standards of fair
7 dealing.

8 (21) "Holder" means:

9 (A) the person in possession of a negotiable instrument
10 that is payable either to bearer or to an identified person that is the
11 person in possession;

12 (B) the person in possession of a negotiable tangible
13 document of title if the goods are deliverable either to bearer or to the
14 order of the person in possession; or

15 (C) the person in control, other than pursuant to § 4-7-
16 106(g), of a negotiable electronic document of title.

17 (22) "Insolvency proceeding" includes an assignment for the
18 benefit of creditors or other proceeding intended to liquidate or
19 rehabilitate the estate of the person involved.

20 (23) "Insolvent" means:

21 (A) having generally ceased to pay debts in the ordinary
22 course of business other than as a result of bona fide dispute;

23 (B) being unable to pay debts as they become due; or

24 (C) being insolvent within the meaning of federal
25 bankruptcy law.

26 (24) "Money" means a medium of exchange that is currently
27 authorized or adopted by a domestic or foreign government. The term includes
28 a monetary unit of account established by an intergovernmental organization
29 or by agreement between two (2) or more countries. The term does not include
30 an electronic record that is a medium of exchange recorded and transferable
31 in a system that existed and operated for the medium of exchange before the
32 medium of exchange was authorized or adopted by the government.

33 (25) "Organization" means a person other than an individual.

34 (26) "Party", as distinguished from a "third party", means a
35 person that has engaged in a transaction or made an agreement subject to this
36 subtitle.

1 (27) "Person" means an individual, corporation, business trust,
2 estate, trust, partnership, limited liability company, association, joint
3 venture, government, governmental subdivision, agency, or instrumentality,
4 ~~public corporation~~, or any other legal or commercial entity. The term
5 includes a protected series, however denominated, of an entity if the
6 protected series is established under law other than the Uniform Commercial
7 Code that limits, or limits if conditions specified under the law are
8 satisfied, the ability of a creditor of the entity or of any other protected
9 series of the entity to satisfy a claim from assets of the protected series.

10 (28) "Present value" means the amount as of a date certain of
11 one (1) or more sums payable in the future, discounted to the date certain by
12 use of either an interest rate specified by the parties if that rate is not
13 manifestly unreasonable at the time the transaction is entered into or, if an
14 interest rate is not so specified, a commercially reasonable rate that takes
15 into account the facts and circumstances at the time the transaction is
16 entered into.

17 (29) "Purchase" means taking by sale, lease, discount,
18 negotiation, mortgage, pledge, lien, security interest, issue or reissue,
19 gift, or any other voluntary transaction creating an interest in property.

20 (30) "Purchaser" means a person that takes by purchase.

21 (31) "Record" means information that is inscribed on a tangible
22 medium or that is stored in an electronic or other medium and is retrievable
23 in perceivable form.

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

26 (33) "Representative" means a person empowered to act for
27 another, including an agent, an officer of a corporation or association, and
28 a trustee, executor, or administrator of an estate.

29 (34) "Right" includes remedy.

30 (35) "Security interest" means an interest in personal property
31 or fixtures which secures payment or performance of an obligation. "Security
32 interest" includes any interest of a consignor and a buyer of accounts,
33 chattel paper, a payment intangible, or a promissory note in a transaction
34 that is subject to Chapter 9. "Security interest" does not include the
35 special property interest of a buyer of goods on identification of those
36 goods to a contract for sale under § 4-2-401, but a buyer may also acquire a

1 “security interest” by complying with Chapter 9. Except as otherwise provided
 2 in § 4-2-505, the right of a seller or lessor of goods under Chapter 2 or 2A
 3 to retain or acquire possession of the goods is not a “security interest”,
 4 but a seller or lessor may also acquire a “security interest” by complying
 5 with Chapter 9. The retention or reservation of title by a seller of goods
 6 notwithstanding shipment or delivery to the buyer under § 4-2-401 is limited
 7 in effect to a reservation of a “security interest.” Whether a transaction in
 8 the form of a lease creates a “security interest” is determined pursuant to §
 9 4-1-203.

10 (36) “Send”, in connection with a ~~writing, record, or notice~~
 11 notification means:

12 (A) to deposit in the mail, ~~or~~ deliver for transmission,
 13 or transmit by any other usual means of communication, with postage or cost
 14 of transmission provided for, ~~and properly addressed and, in the case of an~~
 15 ~~instrument, to an address specified thereon or otherwise agreed, or if there~~
 16 ~~be none~~ addressed to any address reasonable under the circumstances; or

17 (B) ~~in any other way to cause to be received any record or~~
 18 ~~notice within the time it would have arrived if properly sent~~ to cause the
 19 record or notification to be received within the time it would have been
 20 received if properly sent under subparagraph (A).

21 (37) ~~“Signed” includes using any symbol executed or adopted with~~
 22 ~~present intention to adopt or accept a writing~~ “Sign” means, with present
 23 intent to authenticate or adopt a record:

24 (A) execute or adopt a tangible symbol; or

25 (B) attach to or logically associate with the record an
 26 electronic symbol, sound, or process.

27 “Signed”, “signing”, and “signature” have corresponding meanings.

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

31 (39) “Surety” includes a guarantor or other secondary obligor.

32 (40) “Term” means a portion of an agreement that relates to a
 33 particular matter.

34 (41) “Unauthorized signature” means a signature made without
 35 actual, implied, or apparent authority. The term includes a forgery.

36 (42) “Warehouse receipt” means a document of title issued by a

1 person engaged in the business of storing goods for hire.

2 (43) "Writing" includes printing, typewriting, or any other
3 intentional reduction to tangible form. "Written" has a corresponding
4 meaning.

5
6 SECTION 2. Arkansas Code § 4-1-204 is amended to read as follows:

7 4-1-204. Value.

8 Except as otherwise provided in Chapters 3, 4, ~~and 5~~, 6, and 12, a
9 person gives value for rights if the person acquires them:

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

14 (2) as security for, or in total or partial satisfaction of, a
15 preexisting claim;

16 (3) by accepting delivery under a preexisting contract for
17 purchase; or

18 (4) in return for any consideration sufficient to support a
19 simple contract.

20
21 SECTION 3. Arkansas Code § 4-1-301 is amended to read as follows:

22 4-1-301. Territorial application of the subtitle – Parties' power to
23 choose applicable law.

24 (1) Except as provided in this section, when a transaction bears
25 a reasonable relation to this state and also to another state or nation, the
26 parties may agree that the law either of this state or of such other state or
27 nation shall govern their rights and duties. Failing such agreement this
28 subtitle applies to transactions bearing an appropriate relation to this
29 state.

30 (2) Where one of the following provisions of this subtitle
31 specifies the applicable law, that provision governs and a contrary agreement
32 is effective only to the extent permitted by the law (including the conflict
33 of laws rules) so specified:

34 Rights of creditors against sold goods. Section 4-2-402.

35 Applicability of the chapter on leases. Sections 4-2A-105 and 4-
36 2A-106.

1 Applicability of the chapter on bank deposits and collections.
2 Section 4-4-102.

3 Governing law in the chapter on funds transfers. Section 4-4A-
4 507.

5 Letters of Credit. Section 4-5-116.

6 Applicability of the chapter on Investment Securities. Section 4-
7 8-110.

8 Law governing perfection, the effect of perfection or non-
9 perfection, and the priority of security interests and agricultural liens.
10 Sections 4-9-301 through 4-9-307.

11 Governing law in the chapter on controllable electronic records.
12 Section 4-12-107.

13
14 SECTION 4. Arkansas Code § 4-1-306 is amended to read as follows:

15 4-1-306. Waiver or renunciation of claim or right after breach.

16 A claim or right arising out of an alleged breach may be discharged in
17 whole or in part without consideration by agreement of the aggrieved party in
18 ~~an authenticated~~ a signed record.

19
20 SECTION 5. Arkansas Code § 4-2-102 is amended to read as follows:

21 4-2-102. Scope – Certain security and other transactions excluded from
22 chapter.

23 (1) Unless the context otherwise requires, and except as provided in
24 subsection (3), this chapter applies to transactions in goods and, in the
25 case of a hybrid transaction, it applies to the extent provided in subsection
26 (2); it does not apply to any transaction which although in the form of an
27 unconditional contract to sell or present sale is intended to operate only as
28 a security transaction nor does this chapter impair or repeal any statute
29 regulating sales to consumers, farmers or other specified classes of buyers.

30 (2) In a hybrid transaction:

31 (a) If the sale-of-goods aspects do not predominate, only the
32 provisions of this chapter which relate primarily to the sale-of-goods
33 aspects of the transaction apply, and the provisions that relate primarily to
34 the transaction as a whole do not apply.

35 (b) If the sale-of-goods aspects predominate, this chapter
36 applies to the transaction but does not preclude application in appropriate

1 circumstances of other law to aspects of the transaction which do not relate
 2 to the sale of goods.

3 (3) This chapter does not:

4 (a) apply to a transaction that, even though in the form of an
 5 unconditional contract to sell or present sale, operates only to create a
 6 security interest; or

7 (b) impair or repeal a statute regulating sales to consumers,
 8 farmers, or other specified classes of buyers.

9
 10 SECTION 6. Arkansas Code § 4-2-106 is amended to read as follows:

11 4-2-106. Definitions – “Contract” – “Agreement” – “Contract for sale”
 12 – “Sale” – “Present sale” – “Conforming” to contract – “Termination” –
 13 “Cancellation” – “Hybrid Transaction”.

14 (1) In this chapter unless the context otherwise requires “contract”
 15 and “agreement” are limited to those relating to the present or future sale
 16 of goods. “Contract for sale” includes both a present sale of goods and a
 17 contract to sell goods at a future time. A “sale” consists in the passing of
 18 title from the seller to the buyer for a price (§ 4-2-401). A “present sale”
 19 means a sale which is accomplished by the making of the contract.

20 (2) Goods or conduct including any part of a performance are
 21 “conforming” or conform to the contract when they are in accordance with the
 22 obligations under the contract.

23 (3) “Termination” occurs when either party pursuant to a power created
 24 by agreement or law puts an end to the contract otherwise than for its
 25 breach. On “termination” all obligations which are still executory on both
 26 sides are discharged but any right based on prior breach or performance
 27 survives.

28 (4) “Cancellation” occurs when either party puts an end to the
 29 contract for breach by the other and its effect is the same as that of
 30 “termination” except that the cancelling party also retains any remedy for
 31 breach of the whole contract or any unperformed balance.

32 (5) “Hybrid transaction” means a single transaction involving a sale of
 33 goods and:

34 (a) the provision of services;

35 (b) a lease of other goods; or

36 (c) a sale, lease, or license of property other than goods.

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SECTION 7. Arkansas Code § 4-2-201 is amended to read as follows:

4-2-201. Formal requirements – Statute of frauds.

(1) Except as otherwise provided in this section a contract for the sale of goods for the price of five hundred dollars (\$500) or more is not enforceable by way of action or defense unless there is ~~some writing~~ a record sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by ~~his~~ the party's authorized agent or broker. A ~~writing~~ record is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this ~~paragraph~~ subsection beyond the quantity of goods shown in ~~such writing~~ the record.

(2) Between merchants if within a reasonable time a ~~writing~~ record in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) against ~~such~~ the party unless ~~written~~ in a record notice of objection to its contents is given within ten (10) days after it is received.

(3) A contract which does not satisfy the requirements of subsection (1) but which is valid in other respects is enforceable

(a) if the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or

(b) if the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) with respect to goods for which payment has been made and accepted or which have been received and accepted (§ 4-2-606).

SECTION 8. Arkansas Code § 4-2-202 is amended to read as follows:

4-2-202. Final ~~written~~ expression – Parol or extrinsic evidence.

Terms with respect to which the confirmatory memoranda of the parties

1 agree or which are otherwise set forth in a ~~writing~~ record intended by the
2 parties as a final expression of their agreement with respect to such terms
3 as are included therein may not be contradicted by evidence of any prior
4 agreement or of a contemporaneous oral agreement but may be explained or
5 supplemented;

6 (a) by course of performance, course of dealing, or usage of
7 trade (§ 4-1-303); and

8 (b) by evidence of consistent additional terms unless the court
9 finds the ~~writing~~ record to have been intended also as a complete and
10 exclusive statement of the terms of the agreement.

11
12 SECTION 9. Arkansas Code § 4-2-203 is amended to read as follows:

13 4-2-203. Seals inoperative.

14 The affixing of a seal to a ~~writing~~ record evidencing a contract for
15 sale or an offer to buy or sell goods does not constitute the ~~writing~~ record
16 a sealed instrument and the law with respect to sealed instruments does not
17 apply to such a contract or offer.

18
19 SECTION 10. Arkansas Code § 4-2-205 is amended to read as follows:

20 4-2-205. Firm offers.

21 An offer by a merchant to buy or sell goods in a signed ~~writing~~ record
22 which by its terms gives assurance that it will be held open is not
23 revocable, for lack of consideration, during the time stated or if no time is
24 stated for a reasonable time, but in no event may such period of
25 irrevocability exceed three (3) months; but any such term of assurance on a
26 form supplied by the offeree must be separately signed by the offeror.

27
28 SECTION 11. Arkansas Code § 4-2-209(2), concerning the modification or
29 rescission of a signed writing under the Uniform Commercial Code, is amended
30 to read as follows:

31 (2) A signed agreement which excludes modification or rescission
32 except by a signed writing or other signed record cannot be otherwise
33 modified or rescinded, but except as between merchants such a requirement on
34 a form supplied by the merchant must be separately signed by the other party.

35
36 SECTION 12. Arkansas Code § 4-2A-102 is amended to read as follows:

1 4-2A-102. Scope.

2 (1) This chapter applies to any transaction, regardless of form, that
3 creates a lease and, in the case of a hybrid lease, it applies to the extent
4 provided in subsection (2).

5 (2) In a hybrid lease:

6 (a) if the lease-of-goods aspects do not predominate:

7 (i) only the provisions of this chapter which relate
8 primarily to the lease-of-goods aspects of the transaction apply, and the
9 provisions that relate primarily to the transaction as a whole do not apply;

10 (ii) Section 4-2A-209 applies if the lease is a finance
11 lease; and

12 (iii) Section 4-2A-407 applies to the promises of the
13 lessee in a finance lease to the extent the promises are consideration for
14 the right to possession and use of the leased goods; and

15 (b) if the lease-of-goods aspects predominate, this chapter
16 applies to the transaction, but does not preclude application in appropriate
17 circumstances of other law to aspects of the lease which do not relate to the
18 lease of goods.

19
20 SECTION 13. Arkansas Code § 4-2A-103(1), concerning definitions used
21 in the Uniform Commercial Code, is amended to read as follows:

22 (1) In this chapter unless the context otherwise requires:

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

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

34 (c) "Commercial unit" means such a unit of goods as by
35 commercial usage is a single whole for purposes of lease and division of
36 which materially impairs its character or value on the market or in use. A

1 commercial unit may be a single article, as a machine, or a set of articles,
2 as a suite of furniture or a line of machinery, or a quantity, as a gross or
3 carload, or any other unit treated in use or in the relevant market as a
4 single whole.

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

8 (e) "Consumer lease" means a lease that a lessor regularly
9 engaged in the business of leasing or selling makes to a lessee who is an
10 individual and who takes under the lease primarily for a personal, family, or
11 household purpose, if the total payments to be made under the lease contract,
12 excluding payments for options to renew or buy, do not exceed twenty-five
13 thousand dollars (\$25,000).

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

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

16 (i) the lessor does not select, manufacture, or supply the
17 goods;

18 (ii) the lessor acquires the goods or the right to
19 possession and use of the goods in connection with the lease; and

20 (iii) one of the following occurs:

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

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

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

34 (D) if the lease is not a consumer lease, the
35 lessor, before the lessee signs the lease contract, informs the lessee in
36 writing (a) of the identity of the person supplying the goods to the lessor,

1 unless the lessee has selected that person and directed the lessor to acquire
 2 the goods or the right to possession and use of the goods from that person,
 3 (b) that the lessee is entitled under this chapter to the promises and
 4 warranties, including those of any third party, provided to the lessor by the
 5 person supplying the goods in connection with or as part of the contract by
 6 which the lessor acquired the goods or the right to possession and use of the
 7 goods, and (c) that the lessee may communicate with the person supplying the
 8 goods to the lessor and receive an accurate and complete statement of those
 9 promises and warranties, including any disclaimers and limitations of them or
 10 of remedies.

11 (h) "Goods" means all things that are movable at the time of
 12 identification to the lease contract, or are fixtures (§ 4-2A-309), but the
 13 term does not include money, documents, instruments, accounts, chattel paper,
 14 general intangibles, or minerals or the like, including oil and gas, before
 15 extraction. The term also includes the unborn young of animals.

16 (hl) "Hybrid lease" means a single transaction involving a lease
 17 of goods and:

18 (i) the provision of services;

19 (ii) a sale of other goods; or

20 (iii) a sale, lease, or license of property other than
 21 goods.

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

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

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

36 (l) "Lease contract" means the total legal obligation that

1 results from the lease agreement as affected by this chapter and any other
2 applicable rules of law. Unless the context clearly indicates otherwise, the
3 term includes a sublease contract.

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

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

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

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

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

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

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

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

32 (u) "Present value" means the amount as of a date certain of one
33 or more sums payable in the future, discounted to the date certain. The
34 discount is determined by the interest rate specified by the parties if the
35 rate was not manifestly unreasonable at the time the transaction was entered
36 into; otherwise, the discount is determined by a commercially reasonable rate

1 that takes into account the facts and circumstances of each case at the time
2 the transaction was entered into.

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

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

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

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

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

16
17 SECTION 14. Arkansas Code § 4-2A-107 is amended to read as follows:

18 4-2A-107. Waiver or renunciation of claim or right after default.

19 Any claim or right arising out of an alleged default or breach of
20 warranty may be discharged in whole or in part without consideration by a
21 ~~written~~ waiver or renunciation in a signed and record delivered by the
22 aggrieved party.

23
24 SECTION 15. Arkansas Code § 4-2A-201 is amended to read as follows:

25 4-2A-201. Statute of frauds.

26 (1) A lease contract is not enforceable by way of action or defense
27 unless:

28 (a) the total payments to be made under the lease contract,
29 excluding payments for options to renew or buy, are less than one thousand
30 dollars (\$1,000); or

31 (b) there is a ~~writing~~ record, signed by the party against whom
32 enforcement is sought or by that party's authorized agent, sufficient to
33 indicate that a lease contract has been made between the parties and to
34 describe the goods leased and the lease term.

35 (2) Any description of leased goods or of the lease term is sufficient
36 and satisfies subsection (1)(b), whether or not it is specific, if it

1 reasonably identifies what is described.

2 (3) A ~~writing~~ record is not insufficient because it omits or
3 incorrectly states a term agreed upon, but the lease contract is not
4 enforceable under subsection (1)(b) beyond the lease term and the quantity of
5 goods shown in the ~~writing~~ record.

6 (4) A lease contract that does not satisfy the requirements of
7 subsection (1), but which is valid in other respects, is enforceable:

8 (a) if the goods are to be specially manufactured or obtained
9 for the lessee and are not suitable for lease or sale to others in the
10 ordinary course of the lessor's business, and the lessor, before notice of
11 repudiation is received and under circumstances that reasonably indicate that
12 the goods are for the lessee, has made either a substantial beginning of
13 their manufacture or commitments for their procurement;

14 (b) if the party against whom enforcement is sought admits in
15 that party's pleading, testimony or otherwise in court that a lease contract
16 was made, but the lease contract is not enforceable under this provision
17 beyond the quantity of goods admitted; or

18 (c) with respect to goods that have been received and accepted
19 by the lessee.

20 (5) The lease term under a lease contract referred to in subsection
21 (4) is:

22 (a) if there is a ~~writing~~ record signed by the party against
23 whom enforcement is sought or by that party's authorized agent specifying the
24 lease term, the term so specified;

25 (b) if the party against whom enforcement is sought admits in
26 that party's pleading, testimony, or otherwise in court a lease term, the
27 term so admitted; or

28 (c) a reasonable lease term.

29

30 SECTION 16. Arkansas Code § 4-2A-202 is amended to read as follows:

31 4-2A-202. Final ~~written~~ expression – Parol or extrinsic evidence.

32 Terms with respect to which the confirmatory memoranda of the parties
33 agree or which are otherwise set forth in a ~~writing~~ record intended by the
34 parties as a final expression of their agreement with respect to such terms
35 as are included therein may not be contradicted by evidence of any prior
36 agreement or of a contemporaneous oral agreement but may be explained or

1 supplemented:

2 (a) by course of dealing or usage of trade or by course of
3 performance; and

4 (b) by evidence of consistent additional terms unless the court
5 finds the writing record to have been intended also as a complete and
6 exclusive statement of the terms of the agreement.

7

8 SECTION 17. Arkansas Code § 4-2A-203 is amended to read as follows:
9 4-2A-203. Seals inoperative.

10 The affixing of a seal to a writing record evidencing a lease contract
11 or an offer to enter into a lease contract does not render the writing record
12 a sealed instrument and the law with respect to sealed instruments does not
13 apply to the lease contract or offer.

14

15 SECTION 18. Arkansas Code § 4-2A-205 is amended to read as follows:
16 4-2A-205. Firm offers.

17 An offer by a merchant to lease goods to or from another person in a
18 signed writing record that by its terms gives assurance it will be held open
19 is not revocable, for lack of consideration, during the time stated or, if no
20 time is stated, for a reasonable time, but in no event may the period of
21 irrevocability exceed three (3) months. Any such term of assurance on a form
22 supplied by the offeree must be separately signed by the offeror.

23

24 SECTION 19. Arkansas Code § 4-2A-208(2), concerning the modification
25 or rescission of a signed writing under the Uniform Commercial Code, is
26 amended to read as follows:

27 (2) A signed lease agreement that excludes modification or rescission
28 except by a signed writing record may not be otherwise modified or rescinded,
29 but, except as between merchants, such a requirement on a form supplied by a
30 merchant must be separately signed by the other party.

31

32 SECTION 20. Arkansas Code § 4-3-104(a), concerning the definition of
33 "negotiable instrument" used in the Uniform Commercial Code, is amended to
34 read as follows:

35 (a) Except as provided in subsections (c) and (d), "negotiable
36 instrument" means an unconditional promise or order to pay a fixed amount of

1 money, with or without interest or other charges described in the promise or
2 order, if it:

3 (1) is payable to bearer or to order at the time it is issued or
4 first comes into possession of a holder;

5 (2) is payable on demand or at a definite time; and

6 (3) does not state any other undertaking or instruction by the
7 person promising or ordering payment to do any act in addition to the payment
8 of money, but the promise or order may contain (i) an undertaking or power to
9 give, maintain, or protect collateral to secure payment, (ii) an
10 authorization or power to the holder to confess judgment or realize on or
11 dispose of collateral, ~~or~~ (iii) a waiver of the benefit of any law intended
12 for the advantage or protection of an obligor, (iv) a term that specifies the
13 law that governs the promise or order, or (v) an undertaking to resolve in a
14 specified forum a dispute concerning the promise or order.

15
16 SECTION 21. Arkansas Code § 4-3-105(a), concerning the definition of
17 "issue" used in the Uniform Commercial Code, is amended to read as follows:

18 (a) "Issue" means:

19 (1) the first delivery of an instrument by the maker or drawer,
20 whether to a holder or nonholder, for the purpose of giving rights on the
21 instrument to any person; or

22 (2) if agreed by the payee, the first transmission by the drawer
23 to the payee of an image of an item and information derived from the item
24 that enables the depository bank to collect the item by transferring or
25 presenting under federal law an electronic check.

26
27 SECTION 22. Arkansas Code § 4-3-401 is amended to read as follows:

28 4-3-401. Signature necessary for liability on instrument.

29 ~~(a)~~ A person is not liable on an instrument unless (i) the person
30 signed the instrument, or (ii) the person is represented by an agent or
31 representative who signed the instrument and the signature is binding on the
32 represented person under § 4-3-402.

33 ~~(b) A signature may be made (i) manually or by means of a device or~~
34 ~~machine, and (ii) by the use of any name, including a trade or assumed name,~~
35 ~~or by a word, mark, or symbol executed or adopted by a person with present~~
36 ~~intention to authenticate a writing.~~

1
2 SECTION 23. Arkansas Code § 4-3-604 is amended to read as follows:

3 4-3-604. Discharge by cancellation or renunciation.

4 (a) A person entitled to enforce an instrument, with or without
5 consideration, may discharge the obligation of a party to pay the instrument
6 (i) by an intentional voluntary act, such as surrender of the instrument to
7 the party, destruction, mutilation, or cancellation of the instrument,
8 cancellation or striking out of the party's signature, or the addition of
9 words to the instrument indicating discharge, or (ii) by agreeing not to sue
10 or otherwise renouncing rights against the party by a signed record. The
11 obligation of a party to pay a check is not discharged solely by destruction
12 of the check in connection with a process in which information is extracted
13 from the check and an image of the check is made and, subsequently, the
14 information and image are transmitted for payment.

15 (b) Cancellation or striking out of an indorsement pursuant to
16 subsection (a) does not affect the status and rights of a party derived from
17 the indorsement.

18 ~~(c) In this section, "signed," with respect to a record that is not a~~
19 ~~writing, includes the attachment to or logical association with the record of~~
20 ~~an electronic symbol, sound, or process with the present intent to adopt or~~
21 ~~accept the record.~~

22
23 SECTION 24. Arkansas Code § 4-4A-103(a)(1), concerning the definition
24 of "payment order" used in the Uniform Commercial Code, is amended to read as
25 follows:

26 (1) "Payment order" means an instruction of a sender to a
27 receiving bank, transmitted orally, ~~electronically, or in writing~~ or in a
28 record, to pay, or to cause another bank to pay, a fixed or determinable
29 amount of money to a beneficiary if:

30 (i) the instruction does not state a condition to payment
31 to the beneficiary other than time of payment,

32 (ii) the receiving bank is to be reimbursed by debiting an
33 account of, or otherwise receiving payment from, the sender, and

34 (iii) the instruction is transmitted by the sender
35 directly to the receiving bank or to an agent, funds-transfer system, or
36 communication system for transmittal to the receiving bank.

1
2 SECTION 25. Arkansas Code § 4-4A-201 is amended to read as follows:

3 4-4A-201. Security procedure.

4 "Security procedure" means a procedure established by agreement of a
5 customer and a receiving bank for the purpose of (i) verifying that a payment
6 order or communication amending or cancelling a payment order is that of the
7 customer, or (ii) detecting error in the transmission or the content of the
8 payment order or communication. A security procedure may impose an obligation
9 on the receiving bank or the customer and may require the use of algorithms
10 or other codes, identifying words, ~~or~~ numbers, symbols, sounds, biometrics,
11 encryption, callback procedures, or similar security devices. Comparison of a
12 signature on a payment order or communication with an authorized specimen
13 signature of the customer or requiring a payment order to be sent from a
14 known email address, IP address, or telephone number is not by itself a
15 security procedure.
16

17 SECTION 26. Arkansas Code § 4-4A-202(b), concerning the verification
18 and authenticity of payment orders under the Uniform Commercial Code, is
19 amended to read as follows:

20 (b) If a bank and its customer have agreed that the authenticity of
21 payment orders issued to the bank in the name of the customer as sender will
22 be verified pursuant to a security procedure, a payment order received by the
23 receiving bank is effective as the order of the customer, whether or not
24 authorized, if (i) the security procedure is a commercially reasonable method
25 of providing security against unauthorized payment orders, and (ii) the bank
26 proves that it accepted the payment order in good faith and in compliance
27 with the bank's obligations under the security procedure and any ~~written~~
28 agreement or instruction of the customer, evidenced by a record, restricting
29 acceptance of payment orders issued in the name of the customer. The bank is
30 not required to follow an instruction that violates ~~a written an~~ agreement
31 with the customer, evidenced by a record, or notice of which is not received
32 at a time and in a manner affording the bank a reasonable opportunity to act
33 on it before the payment order is accepted.
34

35 SECTION 27. Arkansas Code § 4-4A-202(c), concerning the commercial
36 reasonableness of the security procedure used to verify the authenticity of a

1 payment order under the Uniform Commercial Code, is amended to read as
2 follows:

3 (c) Commercial reasonableness of a security procedure is a question of
4 law to be determined by considering the wishes of the customer expressed to
5 the bank, the circumstances of the customer known to the bank, including the
6 size, type, and frequency of payment orders normally issued by the customer
7 to the bank, alternative security procedures offered to the customer, and
8 security procedures in general use by customers and receiving banks similarly
9 situated. A security procedure is deemed to be commercially reasonable if (i)
10 the security procedure was chosen by the customer after the bank offered, and
11 the customer refused, a security procedure that was commercially reasonable
12 for that customer, and (ii) the customer expressly agreed in ~~writing~~ a record
13 to be bound by any payment order, whether or not authorized, issued in its
14 name and accepted by the bank in compliance with the bank's obligations under
15 the security procedure chosen by the customer.

16

17 SECTION 28. Arkansas Code § 4-4A-203(a)(1), concerning the
18 unenforceability of certain payment orders under the Uniform Commercial Code,
19 is amended to read as follows:

20 (1) By express ~~written~~ agreement evidenced by a record, the
21 receiving bank may limit the extent to which it is entitled to enforce or
22 retain payment of the payment order.

23

24 SECTION 29. Arkansas Code § 4-4A-207(c)(2), concernring the rules
25 applicable for misdescription of a beneficiary of a payment order under the
26 Uniform Commercial Code, is amended to read as follows:

27 (2) If the originator is not a bank and proves that the person
28 identified by number was not entitled to receive payment from the originator,
29 the originator is not obliged to pay its order unless the originator's bank
30 proves that the originator, before acceptance of the originator's order, had
31 notice that payment of a payment order issued by the originator might be made
32 by the beneficiary's bank on the basis of an identifying or bank account
33 number even if it identifies a person different from the named beneficiary.
34 Proof of notice may be made by any admissible evidence. The originator's bank
35 satisfies the burden of proof if it proves that the originator, before the
36 payment order was accepted, signed a ~~writing~~ record stating the information

1 to which the notice relates.

2
3 SECTION 30. Arkansas Code § 4-4A-208(b)(2), concerning the
4 misdescription of an intermediary bank or beneficiary's bank in a payment
5 order under the Uniform Commercial Code, is amended to read as follows:

6 (2) If the sender is not a bank and the receiving bank proves
7 that the sender, before the payment order was accepted, had notice that the
8 receiving bank might rely on the number as the proper identification of the
9 intermediary or beneficiary's bank even if it identifies a person different
10 from the bank identified by name, the rights and obligations of the sender
11 and the receiving bank are governed by subsection (b)(1), as though the
12 sender were a bank. Proof of notice may be made by any admissible evidence.
13 The receiving bank satisfies the burden of proof if it proves that the
14 sender, before the payment order was accepted, signed a writing record
15 stating the information to which the notice relates.

16
17 SECTION 31. Arkansas Code § 4-4A-210(a), concerning the rejection of a
18 payment order under the Uniform Commercial Code, is amended to read as
19 follows:

20 (a) A payment order is rejected by the receiving bank by a notice of
21 rejection transmitted to the sender orally, ~~electronically~~, or in writing a
22 record. A notice of rejection need not use any particular words and is
23 sufficient if it indicates that the receiving bank is rejecting the order or
24 will not execute or pay the order. Rejection is effective when the notice is
25 given if transmission is by a means that is reasonable in the circumstances.
26 If notice of rejection is given by a means that is not reasonable, rejection
27 is effective when the notice is received. If an agreement of the sender and
28 receiving bank establishes the means to be used to reject a payment order,
29 (i) any means complying with the agreement is reasonable and (ii) any means
30 not complying is not reasonable unless no significant delay in receipt of the
31 notice resulted from the use of the noncomplying means.

32
33 SECTION 32. Arkansas Code § 4-4A-211(a), concerning the cancellation
34 and amendment of a payment order under the Uniform Commercial Code, is
35 amended to read as follows:

36 (a) A communication of the sender of a payment order cancelling or

1 amending the order may be transmitted to the receiving bank orally,
 2 ~~electronically~~, or in writing a record. If a security procedure is in effect
 3 between the sender and the receiving bank, the communication is not effective
 4 to cancel or amend the order unless the communication is verified pursuant to
 5 the security procedure or the bank agrees to the cancellation or amendment.

6
 7 SECTION 33. Arkansas Code § 4-4A-305(c) and (d), concerning the
 8 liability of consequential damages for late or improper execution or failure
 9 to execute a payment order under the Uniform Commercial Code, are amended to
 10 read as follows:

11 (c) In addition to the amounts payable under subsections (a) and (b),
 12 damages, including consequential damages, are recoverable to the extent
 13 provided in an express ~~written~~ agreement of the receiving bank, evidenced by
 14 a record.

15 (d) If a receiving bank fails to execute a payment order it was
 16 obliged by express agreement to execute, the receiving bank is liable to the
 17 sender for its expenses in the transaction and for incidental expenses and
 18 interest losses resulting from the failure to execute. Additional damages,
 19 including consequential damages, are recoverable to the extent provided in an
 20 express ~~written~~ agreement of the receiving bank, evidenced by a record, but
 21 are not otherwise recoverable.

22
 23 SECTION 34. Arkansas Code § 4-5-104 is amended to read as follows:

24 4-5-104. Formal requirements.

25 A letter of credit, confirmation, advice, transfer, amendment, or
 26 cancellation may be issued in any form that is a signed record ~~and is~~
 27 ~~authenticated (i) by a signature or (ii) in accordance with the agreement of~~
 28 ~~the parties or the standard practice referred to in § 4-5-108(e).~~

29
 30 SECTION 35. Arkansas Code § 4-5-116 is amended to read as follows:

31 4-5-116. Choice of law and forum.

32 (a) The liability of an issuer, nominated person, or adviser for
 33 action or omission is governed by the law of the jurisdiction chosen by an
 34 agreement in the form of a record signed ~~or otherwise authenticated~~ by the
 35 affected parties ~~in the manner provided in § 4-5-104~~ or by a provision in the
 36 person's letter of credit, confirmation, or other undertaking. The

1 jurisdiction whose law is chosen need not bear any relation to the
2 transaction.

3 (b) Unless subsection (a) of this section applies, the liability of an
4 issuer, nominated person, or adviser for action or omission is governed by
5 the law of the jurisdiction in which the person is located. The person is
6 considered to be located at the address indicated in the person's
7 undertaking. If more than one (1) address is indicated, the person is
8 considered to be located at the address from which the person's undertaking
9 was issued.

10 (c) For the purpose of jurisdiction, choice of law, and recognition of
11 interbranch letters of credit, but not enforcement of a judgment, all
12 branches of a bank are considered separate juridical entities and a bank is
13 considered to be located at the place where its relevant branch is considered
14 to be located under ~~this~~ subsection (d).

15 (d) A branch of a bank is considered to be located at the address
16 indicated in the branch's undertaking. If more than one address is indicated,
17 the branch is considered to be located at the address from which the
18 undertaking was issued.

19 ~~(e)~~(e) Except as otherwise provided in this subsection, the liability
20 of an issuer, nominated person, or adviser is governed by any rules of custom
21 or practice, such as the Uniform Customs and Practice for Documentary
22 Credits, to which the letter of credit, confirmation, or other undertaking is
23 expressly made subject. If (i) this chapter would govern the liability of an
24 issuer, nominated person, or adviser under subsection (a) or (b) of this
25 section, (ii) the relevant undertaking incorporates rules of custom or
26 practice, and (iii) there is conflict between this chapter and those rules as
27 applied to that undertaking, those rules govern except to the extent of any
28 conflict with the nonvariable provisions specified in § 4-5-103(c).

29 ~~(d)~~(f) If there is conflict between this chapter and Chapter 3, 4, 4A,
30 or 9, this chapter governs.

31 ~~(e)~~(g) The forum for settling disputes arising out of an undertaking
32 within this chapter may be chosen in the manner and with the binding effect
33 that governing law may be chosen in accordance with subsection (a) of this
34 section.

35

36 SECTION 36. Arkansas Code § 4-7-102(a)(12), concerning the definition

1 of "sign" in the Uniform Commercial Code, is amended to read as follows:

2 (12) ~~"Sign" means, with present intent to authenticate or adopt~~
 3 ~~a record;~~

4 ~~(A) to execute or adopt a tangible symbol; or~~

5 ~~(B) to attach to or logically associate with the record an~~
 6 ~~electronic sound, symbol, or process. [Reserved.]~~

7
 8 SECTION 37. Arkansas Code § 4-7-106 is amended to read as follows:

9 4-7-106. Control of electronic document of title.

10 (a) A person has control of an electronic document of title if a
 11 system employed for evidencing the transfer of interests in the electronic
 12 document reliably establishes that person as the person to which the
 13 electronic document was issued or transferred.

14 (b) A system satisfies subsection (a), and a person ~~is deemed to have~~
 15 has control of an electronic document of title, if the document is created,
 16 stored, and ~~assigned~~ transferred in ~~such~~ a manner that:

17 (1) a single authoritative copy of the document exists which is
 18 unique, identifiable, and, except as otherwise provided in paragraphs (4),
 19 (5), and (6), unalterable;

20 (2) the authoritative copy identifies the person asserting
 21 control as:

22 (A) the person to which the document was issued; or

23 (B) if the authoritative copy indicates that the document
 24 has been transferred, the person to which the document was most recently
 25 transferred;

26 (3) the authoritative copy is communicated to and maintained by
 27 the person asserting control or its designated custodian;

28 (4) copies or amendments that add or change an identified
 29 ~~assignee~~ transferee of the authoritative copy can be made only with the
 30 consent of the person asserting control;

31 (5) each copy of the authoritative copy and any copy of a copy
 32 is readily identifiable as a copy that is not the authoritative copy; and

33 (6) any amendment of the authoritative copy is readily
 34 identifiable as authorized or unauthorized.

35 (c) A system satisfies subsection (a), and a person has control of an
 36 electronic document of title, if an authoritative electronic copy of the

1 document, a record attached to or logically associated with the electronic
2 copy, or a system in which the electronic copy is recorded:

3 (1) enables the person readily to identify each electronic copy
4 as either an authoritative copy or a nonauthoritative copy;

5 (2) enables the person readily to identify itself in any way,
6 including by name, identifying number, cryptographic key, office, or account
7 number, as the person to which each authoritative electronic copy was issued
8 or transferred; and

9 (3) gives the person exclusive power, subject to subsection (d),
10 to:

11 (A) prevent others from adding or changing the person to
12 which each authoritative electronic copy has been issued or transferred; and

13 (B) transfer control of each authoritative electronic
14 copy.

15 (d) Subject to subsection (e), a power is exclusive under subsection
16 (c)(3)(A) and (B) even if:

17 (1) the authoritative electronic copy, a record attached to or
18 logically associated with the authoritative electronic copy, or a system in
19 which the authoritative electronic copy is recorded limits the use of the
20 document of title or has a protocol that is programmed to cause a change,
21 including a transfer or loss of control; or

22 (2) the power is shared with another person.

23 (e) A power of a person is not shared with another person under
24 subsection (d)(2) and the person's power is not exclusive if:

25 (1) the person can exercise the power only if the power also is
26 exercised by the other person; and

27 (2) the other person:

28 (A) can exercise the power without exercise of the power
29 by the person; or

30 (B) is the transferor to the person of an interest in the
31 document of title.

32 (f) If a person has the powers specified in subsection (c)(3)(A) and
33 (B), the powers are presumed to be exclusive.

34 (g) A person has control of an electronic document of title if another
35 person, other than the transferor to the person of an interest in the
36 document:

1 (1) has control of the document and acknowledges that it has
 2 control on behalf of the person; or

3 (2) obtains control of the document after having acknowledged
 4 that it will obtain control of the document on behalf of the person.

5 (h) A person that has control under this section is not required to
 6 acknowledge that it has control on behalf of another person.

7 (i) If a person acknowledges that it has or will obtain control on
 8 behalf of another person, unless the person otherwise agrees or law other
 9 than this chapter or Chapter 9 otherwise provides, the person does not owe
 10 any duty to the other person and is not required to confirm the
 11 acknowledgment to any other person.

12
 13 SECTION 38. Arkansas Code § 4-8-102(a)(6), concerning the definition
 14 of "communicate" in the Uniform Commercial Code, is amended to read as
 15 follows:

16 (6) "Communicate" means to:

17 (i) send a signed ~~writing~~ record; or

18 (ii) transmit information by any mechanism agreed upon by
 19 the persons transmitting and receiving the information.

20
 21 SECTION 39. Arkansas Code § 4-8-102(b), concerning definitions used in
 22 the Uniform Commercial Code, is amended to read as follows:

23 (b) ~~Other~~ The following definitions ~~applying to~~ in this chapter and
 24 ~~the sections in which they appear are~~ other chapters apply to this chapter:

25	Appropriate person	§ 4-8-107
26	Control	§ 4-8-106
27	<u>Controllable account</u>	<u>§ 4-9-102</u>
28	<u>Controllable electronic record</u>	<u>§ 4-12-102</u>
29	<u>Controllable payment intangible</u>	<u>§ 4-9-102</u>
30	Delivery	§ 4-8-301
31	Investment company security	§ 4-8-103
32	Issuer	§ 4-8-201
33	Overissue	§ 4-8-210
34	Protected purchaser	§ 4-8-303
35	Securities account	§ 4-8-501

36

1 SECTION 40. Arkansas Code § 4-8-103, concerning the rules for
2 determining whether certain obligations and interests are securities or
3 financial assets in the Uniform Commercial Code, is amended to add an
4 additional subsection to read as follows:

5 (h) A controllable account, controllable electronic record, or
6 controllable payment intangible is not a financial asset unless § 4-8-
7 102(a)(9)(iii) applies.

8
9 SECTION 41. Arkansas Code § 4-8-106(d), concerning control of a
10 security entitlement by a purchaser under the Uniform Commercial Code, is
11 amended to read as follows:

12 (d) A purchaser has “control” of a security entitlement if:

13 (1) the purchaser becomes the entitlement holder;

14 (2) the securities intermediary has agreed that it will comply
15 with entitlement orders originated by the purchaser without further consent
16 by the entitlement holder; or

17 (3) ~~another person, has control of the security entitlement on~~
18 ~~behalf of the purchaser or, having previously acquired control of the~~
19 ~~security entitlement, acknowledges that it has control on behalf of the~~
20 ~~purchaser~~ other than the transferor to the purchaser of an interest in the
21 security entitlement:

22 (A) has control of the security entitlement and
23 acknowledges that it has control on behalf of the purchaser; or

24 (B) obtains control of the security entitlement after
25 having acknowledged that it will obtain control of the security entitlement
26 on behalf of the purchaser.

27
28 SECTION 42. Arkansas Code § 4-8-106, concerning control under the
29 Uniform Commercial Code, is amended to add additional subsections to read as
30 follows:

31 (h) A person that has control under this section is not required to
32 acknowledge that it has control on behalf of a purchaser.

33 (i) If a person acknowledges that it has or will obtain control on
34 behalf of a purchaser, unless the person otherwise agrees or law other than
35 this chapter or Chapter 9 otherwise provides, the person does not owe any
36 duty to the purchaser and is not required to confirm the acknowledgment to

1 any other person.

2
3 SECTION 43. Arkansas Code § 4-8-110, concerning the applicability of
4 the Uniform Commercial Code and choice of law under the Uniform Commercial
5 Code, is amended to add an additional subsection to read as follows:

6 (g) The local law of the issuer's jurisdiction or the securities
7 intermediary's jurisdiction governs a matter or transaction specified in
8 subsection (a) or (b) even if the matter or transaction does not bear any
9 relation to the jurisdiction.

10
11 SECTION 44. Arkansas Code § 4-8-303(b), concerning a protected
12 purchaser under the Uniform Commercial Code, is amended to read as follows:

13 (b) ~~In addition to acquiring the rights of a purchaser, a~~ A protected
14 purchaser also acquires its interest in the security free of any adverse
15 claim.

16
17 SECTION 45. Arkansas Code § 4-9-102 is amended to read as follows:
18 4-9-102. Definitions and index of definitions.

19 (a) In this chapter:

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

23 (2) "Account", except as used in "account for", "account
24 statement", "account to", "commodity account" in paragraph (14), "customer's
25 account", "deposit account" in paragraph (29), "on account of", and
26 "statement of account", means a right to payment of a monetary obligation,
27 whether or not earned by performance, (i) for property that has been or is to
28 be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for
29 services rendered or to be rendered, (iii) for a policy of insurance issued
30 or to be issued, (iv) for a secondary obligation incurred or to be incurred,
31 (v) for energy provided or to be provided, (vi) for the use or hire of a
32 vessel under a charter or other contract, (vii) arising out of the use of a
33 credit or charge card or information contained on or for use with the card,
34 or (viii) as winnings in a lottery or other game of chance operated or
35 sponsored by a state, governmental unit of a state, or person licensed or
36 authorized to operate the game by a state or governmental unit of a state.

1 The term includes controllable accounts and health-care-insurance
 2 receivables. The term does not include (i) ~~rights to payment evidenced by~~
 3 ~~chattel paper or an instrument~~ chattel paper, (ii) commercial tort claims,
 4 (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights
 5 or letters of credit, ~~or~~ (vi) rights to payment for money or funds advanced
 6 or sold, other than rights arising out of the use of a credit or charge card
 7 or information contained on or for use with the card, or (vii) rights to
 8 payment evidenced by an instrument.

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

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

15 (A) ~~authenticated~~ signed by a secured party;

16 (B) indicating the aggregate unpaid secured obligations as
 17 of a date not more than thirty-five (35) days earlier or thirty-five (35)
 18 days later than the date of the record; and

19 (C) identifying the components of the obligations in
 20 reasonable detail.

21 (5) "Agricultural lien" means an interest, other than a security
 22 interest or a landlord's lien under § 18-41-101 or § 18-41-103, in farm
 23 products:

24 (A) which secures payment or performance of an obligation
 25 for:

26 (i) goods or services furnished in connection with a
 27 debtor's farming operation; or

28 (ii) rent on real property leased by a debtor in
 29 connection with its farming operation;

30 (B) which is created by statute in favor of a person that:

31 (i) in the ordinary course of its business furnished
 32 goods or services to a debtor in connection with a debtor's farming
 33 operation; or

34 (ii) leased real property to a debtor in connection
 35 with the debtor's farming operation; and

36 (C) whose effectiveness does not depend on the person's

1 possession of the personal property.

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

3 (A) oil, gas, or other minerals that are subject to a
4 security interest that:

5 (i) is created by a debtor having an interest in the
6 minerals before extraction; and

7 (ii) attaches to the minerals as extracted; or

8 (B) accounts arising out of the sale at the wellhead or
9 minehead of oil, gas, or other minerals in which the debtor had an interest
10 before extraction.

11 (7) ~~"Authenticate" means:~~

12 ~~(A) to sign; or~~

13 ~~(B) with present intent to adopt or accept a record, to~~
14 ~~attach to or logically associate with the record an electronic sound, symbol,~~
15 ~~or process. [Reserved.]~~

16 (7A) "Assignee", except as used in "assignee for benefit of
17 creditors", means a person (i) in whose favor a security interest that
18 secures an obligation is created or provided for under a security agreement,
19 whether or not the obligation is outstanding or (ii) to which an account,
20 chattel paper, payment intangible, or promissory note has been sold. The term
21 includes a person to which a security interest has been transferred by a
22 secured party.

23 (7B) "Assignor" means a person that (i) under a security
24 agreement creates or provides for a security interest that secures an
25 obligation or (ii) sells an account, chattel paper, payment intangible, or
26 promissory note. The term includes a secured party that has transferred a
27 security interest to another person.

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

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

33 (10) "Certificate of title" means a certificate of title with
34 respect to which a statute provides for the security interest in question to
35 be indicated on the certificate as a condition or result of the security
36 interest's obtaining priority over the rights of a lien creditor with respect

1 to the collateral. The term includes another record maintained as an
 2 alternative to a certificate of title by the governmental unit that issues
 3 certificates of title if a statute permits the security interest in question
 4 to be indicated on the record as a condition or result of the security
 5 interest's obtaining priority over the rights of a lien creditor with respect
 6 to the collateral.

7 (11) "Chattel paper" means:

8 (A) a record or records that evidence both a monetary
 9 obligation and a security interest in specific goods, a security interest in
 10 specific goods and software used in the goods, a security interest in
 11 specific goods and license of software used in the goods, a lease of specific
 12 goods, or a lease of specific goods and license of software used in the
 13 goods. In this paragraph, "monetary obligation" means a monetary obligation
 14 secured by the goods or owed under a lease of the goods and includes a
 15 monetary obligation with respect to software used in the goods. The term does
 16 not include (i) charters or other contracts involving the use or hire of a
 17 vessel or (ii) records that evidence a right to payment arising out of the
 18 use of a credit or charge card or information contained on or for use with
 19 the card. If a transaction is evidenced by records that include an instrument
 20 or series of instruments, the group of records taken together constitutes
 21 chattel paper right to payment of a monetary obligation secured by specific
 22 goods, if the right to payment and security agreement are evidenced by a
 23 record; or

24 (B) a right to payment of a monetary obligation owed by a
 25 lessee under a lease agreement with respect to specific goods and a monetary
 26 obligation owed by the lessee in connection with the transaction giving rise
 27 to the lease, if:

28 (i) the right to payment and lease agreement are
 29 evidenced by a record; and

30 (ii) the predominant purpose of the transaction
 31 giving rise to the lease was to give the lessee the right to possession and
 32 use of the goods.

33 The term does not include a right to payment arising out of a charter or
 34 other contract involving the use or hire of a vessel or a right to payment
 35 arising out of the use of a credit or charge card or information contained on
 36 or for use with the card.

1 (12) “Collateral” means the property subject to a security
2 interest or agricultural lien. The term includes:

- 3 (A) proceeds to which a security interest attaches;
4 (B) accounts, chattel paper, payment intangibles, and
5 promissory notes that have been sold; and
6 (C) goods that are the subject of a consignment.

7 (13) “Commercial tort claim” means a claim arising in tort with
8 respect to which:

- 9 (A) the claimant is an organization; or
10 (B) the claimant is an individual and the claim:
11 (i) arose in the course of the claimant’s business
12 or profession; and
13 (ii) does not include damages arising out of
14 personal injury to or the death of an individual.

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

18 (15) “Commodity contract” means a commodity futures contract, an
19 option on a commodity futures contract, a commodity option, or another
20 contract if the contract or option is:

- 21 (A) traded on or subject to the rules of a board of trade
22 that has been designated as a contract market for such a contract pursuant to
23 federal commodities laws; or
24 (B) traded on a foreign commodity board of trade,
25 exchange, or market, and is carried on the books of a commodity intermediary
26 for a commodity customer.

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

29 (17) “Commodity intermediary” means a person that:

- 30 (A) is registered as a futures commission merchant under
31 federal commodities law; or
32 (B) in the ordinary course of its business provides
33 clearance or settlement services for a board of trade that has been
34 designated as a contract market pursuant to federal commodities law.

35 (18) “Communicate” means:

- 36 (A) to send a written or other tangible record;

1 (B) to transmit a record by any means agreed upon by the
2 persons sending and receiving the record; or

3 (C) in the case of transmission of a record to or by a
4 filing office, to transmit a record by any means prescribed by filing office
5 rule.

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

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

10 (A) the merchant:

11 (i) deals in goods of that kind under a name other
12 than the name of the person making delivery;

13 (ii) is not an auctioneer; and

14 (iii) is not generally known by its creditors to be
15 substantially engaged in selling the goods of others;

16 (B) with respect to each delivery, the aggregate value of
17 the goods is one thousand dollars (\$1,000) or more at the time of delivery;

18 (C) the goods are not consumer goods immediately before
19 delivery; and

20 (D) the transaction does not create a security interest
21 that secures an obligation.

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

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

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

27 (24) "Consumer-goods transaction" means a consumer transaction
28 in which:

29 (A) an individual incurs an obligation primarily for
30 personal, family, or household purposes; and

31 (B) a security interest in consumer goods secures the
32 obligation.

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

36 (26) "Consumer transaction" means a transaction in which (i) an

1 individual incurs an obligation primarily for personal, family, or household
 2 purposes, (ii) a security interest secures the obligation, and (iii) the
 3 collateral is held or acquired primarily for personal, family, or household
 4 purposes. The term includes consumer-goods transactions.

5 (27) "Continuation statement" means an amendment of a financing
 6 statement which:

7 (A) identifies, by its file number, the initial financing
 8 statement to which it relates; and

9 (B) indicates that it is a continuation statement for, or
 10 that it is filed to continue the effectiveness of, the identified financing
 11 statement.

12 (27A) "Controllable account" means an account evidenced by a
 13 controllable electronic record that provides that the account debtor
 14 undertakes to pay the person that has control under § 4-12-105 of the
 15 controllable electronic record.

16 (27B) "Controllable payment intangible" means a payment
 17 intangible evidenced by a controllable electronic record that provides that
 18 the account debtor undertakes to pay the person that has control under § 4-
 19 12-105 of the controllable electronic record.

20 (28) "Debtor" means:

21 (A) a person having an interest, other than a security
 22 interest or other lien, in the collateral, whether or not the person is an
 23 obligor;

24 (B) a seller of accounts, chattel paper, payment
 25 intangibles, or promissory notes; or

26 (C) a consignee.

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

30 (30) "Document" means a document of title or a receipt of the
 31 type described in § 4-7-201(b).

32 ~~(31) "Electronic chattel paper" means chattel paper evidenced by~~
 33 ~~a record or records consisting of information stored in an electronic medium.~~
 34 [Reserved.]

35 (31A) "Electronic money" means money in an electronic form.

36 (32) "Encumbrance" means a right, other than an ownership

1 interest, in real property. The term includes mortgages and other liens on
2 real property.

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

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

8 (A) crops grown, growing, or to be grown, including:

9 (i) crops produced on trees, vines, and bushes; and

10 (ii) aquatic goods produced in aquacultural
11 operations;

12 (B) livestock, born or unborn, including aquatic goods
13 produced in aquacultural operations;

14 (C) supplies used or produced in a farming operation; or

15 (D) products of crops or livestock in their unmanufactured
16 states.

17 (35) "Farming operation" means raising, cultivating,
18 propagating, fattening, grazing, or any other farming, livestock, or
19 aquacultural operation.

20 (36) "File number" means the number assigned to an initial
21 financing statement pursuant to § 4-9-519(a).

22 (37) "Filing office" means an office designated in § 4-9-501 as
23 the place to file a financing statement.

24 (38) "Filing office rule" means a rule adopted pursuant to § 4-
25 9-526.

26 (39) "Financing statement" means a record or records composed of
27 an initial financing statement and any filed record relating to the initial
28 financing statement.

29 (40) "Fixture filing" means the filing of a financing statement
30 covering goods that are or are to become fixtures and satisfying § 4-9-502(a)
31 and (b). The term includes the filing of a financing statement covering goods
32 of a transmitting utility which are or are to become fixtures.

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

36 (42) "General intangible" means any personal property, including

1 things in action, other than accounts, chattel paper, commercial tort claims,
2 deposit accounts, documents, goods, instruments, investment property, letter-
3 of-credit rights, letters of credit, money, and oil, gas, or other minerals
4 before extraction. The term includes controllable electronic records, payment
5 intangibles, and software.

6 (43) [Reserved.]

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

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

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

32 (47) "Instrument" means a negotiable instrument or any other
33 writing that evidences a right to the payment of a monetary obligation, is
34 not itself a security agreement or lease, and is of a type that in ordinary
35 course of business is transferred by delivery with any necessary indorsement
36 or assignment. The term does not include (i) investment property, (ii)

1 letters of credit, ~~or~~ (iii) writings that evidence a right to payment arising
2 out of the use of a credit or charge card or information contained on or for
3 use with the card, or (iv) writings that evidence chattel paper.

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

5 (A) are leased by a person as lessor;

6 (B) are held by a person for sale or lease or to be
7 furnished under a contract of service;

8 (C) are furnished by a person under a contract of service;

9 or

10 (D) consist of raw materials, work in process, or
11 materials used or consumed in a business.

12 (49) "Investment property" means a security, whether
13 certificated or uncertificated, security entitlement, securities account,
14 commodity contract, or commodity account.

15 (50) "Jurisdiction of organization", with respect to a
16 registered organization, means the jurisdiction under whose law the
17 organization is organized.

18 (51) "Letter-of-credit right" means a right to payment or
19 performance under a letter of credit, whether or not the beneficiary has
20 demanded or is at the time entitled to demand payment or performance. The
21 term does not include the right of a beneficiary to demand payment or
22 performance under a letter of credit.

23 (52) "Lien creditor" means:

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

26 (B) an assignee for benefit of creditors from the time of
27 assignment;

28 (C) a trustee in bankruptcy from the date of the filing of
29 the petition; or

30 (D) a receiver in equity from the time of appointment.

31 (53) "Manufactured home" means a structure, transportable in one
32 (1) or more sections, which, in the traveling mode, is eight body feet or
33 more in width or 40 body feet or more in length, or, when erected on site, is
34 320 or more square feet, and which is built on a permanent chassis and
35 designed to be used as a dwelling with or without a permanent foundation when
36 connected to the required utilities, and includes the plumbing, heating, air-

1 conditioning, and electrical systems contained therein. The term includes any
2 structure that meets all of the requirements of this paragraph except the
3 size requirements and with respect to which the manufacturer voluntarily
4 files a certification required by the United States Secretary of Housing and
5 Urban Development and complies with the standards established under Title 42
6 of the United States Code.

7 (54) "Manufactured-home transaction" means a secured
8 transaction:

9 (A) that creates a purchase-money security interest in a
10 manufactured home, other than a manufactured home held as inventory; or

11 (B) in which a manufactured home, other than a
12 manufactured home held as inventory, is the primary collateral.

13 (54A) "Money" has the meaning in § 4-1-201(b)(24), but does not
14 include (i) a deposit account or (ii) money in an electronic form that cannot
15 be subjected to control under § 4-9-105A.

16 (55) "Mortgage" means a consensual interest in real property,
17 including fixtures, which secures payment or performance of an obligation.

18 (56) "New debtor" means a person that becomes bound as debtor
19 under § 4-9-203(d) by a security agreement previously entered into by another
20 person.

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

25 (58) "Noncash proceeds" means proceeds other than cash proceeds.

26 (59) "Obligor" means a person that, with respect to an
27 obligation secured by a security interest in or an agricultural lien on the
28 collateral, (i) owes payment or other performance of the obligation, (ii) has
29 provided property other than the collateral to secure payment or other
30 performance of the obligation, or (iii) is otherwise accountable in whole or
31 in part for payment or other performance of the obligation. The term does not
32 include issuers or nominated persons under a letter of credit.

33 (60) "Original debtor", except as used in § 4-9-310(c), means a
34 person that, as debtor, entered into a security agreement to which a new
35 debtor has become bound under § 4-9-203(d).

36 (61) "Payment intangible" means a general intangible under which

1 the account debtor's principal obligation is a monetary obligation. The term
2 includes a controllable payment intangible.

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

4 (A) the spouse of the individual;

5 (B) a brother, brother-in-law, sister, or sister-in-law of
6 the individual;

7 (C) an ancestor or lineal descendant of the individual or
8 the individual's spouse; or

9 (D) any other relative, by blood or marriage, of the
10 individual or the individual's spouse who shares the same home with the
11 individual.

12 (63) "Person related to", with respect to an organization,
13 means:

14 (A) a person directly or indirectly controlling,
15 controlled by, or under common control with the organization;

16 (B) an officer or director of, or a person performing
17 similar functions with respect to, the organization;

18 (C) an officer or director of, or a person performing
19 similar functions with respect to, a person described in subparagraph (A);

20 (D) the spouse of an individual described in subparagraph
21 (A), (B), or (C); or

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

25 (64) "Proceeds", except as used in § 4-9-609(b), means the
26 following property:

27 (A) whatever is acquired upon the sale, lease, license,
28 exchange, or other disposition of collateral;

29 (B) whatever is collected on, or distributed on account
30 of, collateral;

31 (C) rights arising out of collateral;

32 (D) to the extent of the value of collateral, claims
33 arising out of the loss, nonconformity, or interference with the use of,
34 defects or infringement of rights in, or damage to, the collateral; or

35 (E) to the extent of the value of collateral and to the
36 extent payable to the debtor or the secured party, insurance payable by

1 reason of the loss or nonconformity of, defects or infringement of rights in,
2 or damage to, the collateral.

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

7 (66) "Proposal" means a record ~~authenticated~~ signed by a secured
8 party which includes the terms on which the secured party is willing to
9 accept collateral in full or partial satisfaction of the obligation it
10 secures pursuant to §§ 4-9-620, 4-9-621, and 4-9-622.

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

13 (A) debt securities are issued;

14 (B) all or a portion of the securities issued have an
15 initial stated maturity of at least twenty (20) years; and

16 (C) the debtor, obligor, secured party, account debtor or
17 other person obligated on collateral, assignor or assignee of a secured
18 obligation, or assignor or assignee of a security interest is a state or a
19 governmental unit of a state.

20 (68) "Public organic record" means a record that is available to
21 the public for inspection and is:

22 (A) a record consisting of the record initially filed with
23 or issued by a State or the United States to form or organize an organization
24 and any record filed with or issued by the State or the United States which
25 amends or restates the initial record;

26 (B) an organic record of a business trust consisting of
27 the record initially filed with a State and any record filed with the State
28 which amends or restates the initial record, if a statute of the State
29 governing business trusts requires that the record be filed with the State;
30 or

31 (C) a record consisting of legislation enacted by the
32 legislature of a State or the Congress of the United States which forms or
33 organizes an organization, any record amending the legislation, and any
34 record filed with or issued by the State or the United States which amends or
35 restates the name of the organization.

36 (69) "Pursuant to commitment", with respect to an advance made

1 or other value given by a secured party, means pursuant to the secured
2 party's obligation, whether or not a subsequent event of default or other
3 event not within the secured party's control has relieved or may relieve the
4 secured party from its obligation.

5 (70) [Repealed.]

6 (71) "Record", except as used in "for record", "of record",
7 "record or legal title", and "record owner", means information that is
8 inscribed on a tangible medium or which is stored in an electronic or other
9 medium and is retrievable in perceivable form.

10 (72) "Registered organization" means an organization formed or
11 organized solely under the law of a single State or the United States by the
12 filing of a public organic record with, the issuance of a public organic
13 record by, or the enactment of legislation by the State or the United States.
14 The term includes a business trust that is formed or organized under the law
15 of a single State if a statute of the State governing business trusts
16 requires that the business trust's organic record be filed with the State.

17 (73) "Secondary obligor" means an obligor to the extent that:

18 (A) the obligor's obligation is secondary; or

19 (B) the obligor has a right of recourse with respect to an
20 obligation secured by collateral against the debtor, another obligor, or
21 property of either.

22 (74) "Secured party" means:

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

26 (B) a person that holds an agricultural lien;

27 (C) a consignor;

28 (D) a person to which accounts, chattel paper, payment
29 intangibles, or promissory notes have been sold;

30 (E) a trustee, indenture trustee, agent, collateral agent,
31 or other representative in whose favor a security interest or agricultural
32 lien is created or provided for; or

33 (F) a person that holds a security interest arising under
34 § 4-2-401, § 4-2-505, § 4-2-711(3), § 4-2A-508(5), § 4-4-210, or § 4-5-118.

35 (75) "Security agreement" means an agreement that creates or
36 provides for a security interest.

1 (76) ~~“Send”, in connection with a record or notification, means+~~
2 ~~(A) to deposit in the mail, deliver for transmission, or~~
3 ~~transmit by any other usual means of communication, with postage or cost of~~
4 ~~transmission provided for, addressed to any address reasonable under the~~
5 ~~circumstances; or~~
6 ~~(B) to cause the record or notification to be received~~
7 ~~within the time that it would have been received if properly sent under~~
8 ~~subparagraph (A).~~ [Reserved.]

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

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

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

20 (80) ~~“Tangible chattel paper” means chattel paper evidenced by a~~
21 ~~record or records consisting of information that is inscribed on a tangible~~
22 ~~medium.~~ [Reserved.]

23 (80A) “Tangible money” means money in a tangible form.

24 (81) “Termination statement” means an amendment of a financing
25 statement which:

26 (A) identifies, by its file number, the initial financing
27 statement to which it relates; and

28 (B) indicates either that it is a termination statement or
29 that the identified financing statement is no longer effective.

30 (82) “Transmitting utility” means a person primarily engaged in
31 the business of:

32 (A) operating a railroad, subway, street railway, or
33 trolley bus;

34 (B) transmitting communications electrically,
35 electromagnetically, or by light;

36 (C) transmitting goods by pipeline or sewer; or

1 (D) producing or transmitting electricity, steam, gas, or
2 water.

3 (b) "Control" as provided in § 4-7-106 and the following definitions
4 in other chapters apply to this chapter:

5 "Applicant". Section 4-5-102.

6 "Beneficiary". Section 4-5-102.

7 "Broker". Section 4-8-102.

8 "Certificated security". Section 4-8-102.

9 "Check". Section 4-3-104.

10 "Clearing corporation". Section 4-8-102.

11 "Contract for sale". Section 4-2-106.

12 "Controllable electronic record". Section 4-12-102.

13 "Customer". Section 4-4-104.

14 "Entitlement holder". Section 4-8-102.

15 "Financial asset". Section 4-8-102.

16 "Holder in due course". Section 4-3-302.

17 "Issuer" (with respect to a letter of credit or letter-of-credit
18 right). Section 4-5-102.

19 "Issuer" (with respect to a security). Section 4-8-201.

20 "Issuer" (with respect to documents of title). Section 4-7-102.

21 "Lease". Section 4-2A-103.

22 "Lease agreement". Section 4-2A-103.

23 "Lease contract". Section 4-2A-103.

24 "Leasehold interest". Section 4-2A-103.

25 "Lessee". Section 4-2A-103.

26 "Lessee in ordinary course of business". Section 4-2A-103.

27 "Lessor". Section 4-2A-103.

28 "Lessor's residual interest". Section 4-2A-103.

29 "Letter of credit". Section 4-5-102.

30 "Merchant". Section 4-2-104.

31 "Negotiable instrument". Section 4-3-104.

32 "Nominated person". Section 4-5-102.

33 "Note". Section 4-3-104.

34 "Proceeds of a letter of credit". Section 4-5-114.

35 "Protected purchaser". Section 4-8-303.

36 "Prove". Section 4-3-103.

1 "Qualifying purchaser". Section 4-12-102.

2 "Sale". Section 4-2-106.

3 "Securities account". Section 4-8-501.

4 "Securities intermediary". Section 4-8-102.

5 "Security". Section 4-8-102.

6 "Security certificate". Section 4-8-102.

7 "Security entitlement". Section 4-8-102.

8 "Uncertificated security". Section 4-8-102.

9 ~~"Virtual currency". Section 4-11-102.~~

10 (c) Chapter 1 contains general definitions and principles of
11 construction and interpretation applicable throughout this chapter.

12
13 SECTION 46. Arkansas Code § 4-9-104(a), concerning the control of a
14 deposit account in the Uniform Commercial Code, is amended to read as
15 follows:

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

17 (1) the secured party is the bank with which the deposit account
18 is maintained;

19 (2) the debtor, secured party, and bank have agreed in ~~an~~
20 authenticated a signed record that the bank will comply with instructions
21 originated by the secured party directing disposition of the funds in the
22 deposit account without further consent by the debtor; ~~or~~

23 (3) the secured party becomes the bank's customer with respect
24 to the deposit account; or

25 (4) another person, other than the debtor:

26 (A) has control of the deposit account and acknowledges
27 that it has control on behalf of the secured party; or

28 (B) obtains control of the deposit account after having
29 acknowledged that it will obtain control of the deposit account on behalf of
30 the secured party.

31
32 SECTION 47. Arkansas Code § 4-9-105 is amended to read as follows:

33 4-9-105. Control of electronic copy of record evidencing chattel
34 paper.

35 (a) A ~~secured party purchaser~~ purchaser has control of ~~electronic an~~
36 authoritative electronic copy of a record evidencing chattel paper if a

1 system employed for evidencing the ~~transfer~~ assignment of interests in the
 2 chattel paper reliably establishes the ~~secured party~~ purchaser as the person
 3 to which the ~~chattel paper~~ authoritative electronic copy was assigned.

4 (b) A system satisfies subsection (a) if the record or records
 5 ~~comprising~~ evidencing the chattel paper are created, stored, and assigned in
 6 ~~such~~ a manner that:

7 (1) a single authoritative copy of the record or records exists
 8 which is unique, identifiable, and, except as otherwise provided in
 9 paragraphs (4), (5), and (6), unalterable;

10 (2) the authoritative copy identifies the ~~secured party~~
 11 purchaser as the assignee of the record or records;

12 (3) the authoritative copy is communicated to and maintained by
 13 the ~~secured party~~ purchaser or its designated custodian;

14 (4) copies or amendments that add or change an identified
 15 assignee of the authoritative copy can be made only with the consent of the
 16 ~~secured party~~ purchaser;

17 (5) each copy of the authoritative copy and any copy of a copy
 18 is readily identifiable as a copy that is not the authoritative copy; and

19 (6) any amendment of the authoritative copy is readily
 20 identifiable as authorized or unauthorized.

21 (c) A system satisfies subsection (a), and a purchaser has control of
 22 an authoritative electronic copy of a record evidencing chattel paper, if the
 23 electronic copy, a record attached to or logically associated with the
 24 electronic copy, or a system in which the electronic copy is recorded:

25 (1) enables the purchaser readily to identify each electronic
 26 copy as either an authoritative copy or a nonauthoritative copy;

27 (2) enables the purchaser readily to identify itself in any way,
 28 including by name, identifying number, cryptographic key, office, or account
 29 number, as the assignee of the authoritative electronic copy; and

30 (3) gives the purchaser exclusive power, subject to subsection
 31 (d), to:

32 (A) prevent others from adding or changing an identified
 33 assignee of the authoritative electronic copy; and

34 (B) transfer control of the authoritative electronic copy.

35 (d) Subject to subsection (e), a power is exclusive under subsection
 36 (c)(3)(A) and (B) even if:

1 (1) the authoritative electronic copy, a record attached to or
 2 logically associated with the authoritative electronic copy, or a system in
 3 which the authoritative electronic copy is recorded limits the use of the
 4 authoritative electronic copy or has a protocol programmed to cause a change,
 5 including a transfer or loss of control; or

6 (2) the power is shared with another person.

7 (e) A power of a purchaser is not shared with another person under
 8 subsection (d)(2) and the purchaser's power is not exclusive if:

9 (1) the purchaser can exercise the power only if the power also
 10 is exercised by the other person; and

11 (2) the other person:

12 (A) can exercise the power without exercise of the power
 13 by the purchaser; or

14 (B) is the transferor to the purchaser of an interest in
 15 the chattel paper.

16 (f) If a purchaser has the powers specified in subsection (c)(3)(A)
 17 and (B), the powers are presumed to be exclusive.

18 (g) A purchaser has control of an authoritative electronic copy of a
 19 record evidencing chattel paper if another person, other than the transferor
 20 to the purchaser of an interest in the chattel paper:

21 (1) has control of the authoritative electronic copy and
 22 acknowledges that it has control on behalf of the purchaser; or

23 (2) obtains control of the authoritative electronic copy after
 24 having acknowledged that it will obtain control of the electronic copy on
 25 behalf of the purchaser.

26
 27 SECTION 48. Arkansas Code Title 4, Chapter 9, Subchapter 1, is amended
 28 to add an additional section to read as follows:

29 4-9-105A. Control of electronic money.

30 (a) A person has control of electronic money if:

31 (1) the electronic money, a record attached to or logically
 32 associated with the electronic money, or a system in which the electronic
 33 money is recorded gives the person:

34 (A) power to avail itself of substantially all the benefit
 35 from the electronic money; and

36 (B) exclusive power, subject to subsection (b), to:

1 (i) prevent others from availing themselves of
2 substantially all the benefit from the electronic money; and

3 (ii) transfer control of the electronic money to
4 another person or cause another person to obtain control of other electronic
5 money as a result of the transfer of the electronic money; and

6 (2) the electronic money, a record attached to or logically
7 associated with the electronic money, or a system in which the electronic
8 money is recorded enables the person readily to identify itself in any way,
9 including by name, identifying number, cryptographic key, office, or account
10 number, as having the powers under paragraph (1).

11 (b) Subject to subsection (c), a power is exclusive under subsection
12 (a)(1)(B)(i) and (ii) even if:

13 (1) the electronic money, a record attached to or logically
14 associated with the electronic money, or a system in which the electronic
15 money is recorded limits the use of the electronic money or has a protocol
16 programmed to cause a change, including a transfer or loss of control; or

17 (2) the power is shared with another person.

18 (c) A power of a person is not shared with another person under
19 subsection (b)(2) and the person's power is not exclusive if:

20 (1) the person can exercise the power only if the power also is
21 exercised by the other person; and

22 (2) the other person:

23 (A) can exercise the power without exercise of the power
24 by the person; or

25 (B) is the transferor to the person of an interest in the
26 electronic money.

27 (d) If a person has the powers specified in subsection (a)(1)(B)(i)
28 and (ii), the powers are presumed to be exclusive.

29 (e) A person has control of electronic money if another person, other
30 than the transferor to the person of an interest in the electronic money:

31 (1) has control of the electronic money and acknowledges that it
32 has control on behalf of the person; or

33 (2) obtains control of the electronic money after having
34 acknowledged that it will obtain control of the electronic money on behalf of
35 the person.

36

1 SECTION 49. Arkansas Code § 4-9-107 is amended to read as follows:

2 4-9-107. Control of letter-of-credit right —~~Control of virtual~~
3 ~~currency.~~

4 ~~(a)~~ A secured party has control of a letter-of-credit right to the
5 extent of any right to payment or performance by the issuer or any nominated
6 person if the issuer or nominated person has consented to an assignment of
7 proceeds of the letter of credit under § 4-5-114(c) or otherwise applicable
8 law or practice.

9 ~~(b) A secured party has control of a virtual currency as provided in §~~
10 ~~4-11-105.~~

11
12 SECTION 50. Arkansas Code Title 4, Chapter 9, Subchapter 1, is amended
13 to add additional sections to read as follows:

14 4-9-107A. Control of controllable electronic record, controllable
15 account, or controllable payment intangible.

16 (a) A secured party has control of a controllable electronic record as
17 provided in § 4-12-105.

18 (b) A secured party has control of a controllable account or
19 controllable payment intangible if the secured party has control of the
20 controllable electronic record that evidences the controllable account or
21 controllable payment intangible.

22
23 4-9-107B. No requirement to acknowledge or confirm; No duties.

24 (a) A person that has control under § 4-9-104, § 4-9-105, or § 4-9-
25 105A is not required to acknowledge that it has control on behalf of another
26 person.

27 (b) If a person acknowledges that it has or will obtain control on
28 behalf of another person, unless the person otherwise agrees or law other
29 than this chapter otherwise provides, the person does not owe any duty to the
30 other person and is not required to confirm the acknowledgment to any other
31 person.

32
33 SECTION 51. Arkansas Code § 4-9-203(b), concerning the attachment and
34 enforceability of a security interest against a debtor and third parties in
35 the Uniform Commercial Code, is amended to read as follows:

36 (b) Except as otherwise provided in subsections (c) through (i), a

1 security interest is enforceable against the debtor and third parties with
2 respect to the collateral only if:

3 (1) value has been given;

4 (2) the debtor has rights in the collateral or the power to
5 transfer rights in the collateral to a secured party; and

6 (3) one of the following conditions is met:

7 (A) the debtor has ~~authenticated~~ signed a security
8 agreement that provides a description of the collateral and, if the security
9 interest covers timber to be cut, a description of the land concerned;

10 (B) the collateral is not a certificated security and is
11 in the possession of the secured party under § 4-9-313 pursuant to the
12 debtor's security agreement;

13 (C) the collateral is a certificated security in
14 registered form and the security certificate has been delivered to the
15 secured party under § 4-8-301 pursuant to the debtor's security agreement; ~~or~~

16 (D) the collateral is controllable accounts, controllable
17 electronic records, controllable payment intangibles, deposit accounts,
18 electronic chattel paper documents, electronic money, investment property, or
19 letter-of-credit rights, ~~or electronic documents,~~ and the secured party has
20 control under § 4-7-106, § 4-9-104, ~~§ 4-9-105,~~ § 4-9-105A, § 4-9-106, ~~or~~ § 4-
21 9-107, or § 4-9-107A pursuant to the debtor's security agreement; or

22 (E) the collateral is chattel paper and the secured party
23 has possession and control under § 4-9-314A pursuant to the debtor's security
24 agreement.

25
26 SECTION 52. Arkansas Code § 4-9-204 is amended to read as follows:

27 4-9-204. After-acquired property – Future advances.

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

31 (b) A Subject to subsection (b)(1), a security interest does not
32 attach under a term constituting an after-acquired property clause to:

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

36 (2) a commercial tort claim.

1 (b)(1) Subsection (b) does not prevent a security interest from
 2 attaching:

3 (1) to consumer goods as proceeds under § 4-9-315(a) or
 4 commingled goods under § 4-9-336(c);

5 (2) to a commercial tort claim as proceeds under § 4-9-315(a);
 6 or

7 (3) under an after-acquired property clause to property that is
 8 proceeds of consumer goods or a commercial tort claim.

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

13
 14 SECTION 53. Arkansas Code § 4-9-207(c), concerning the rights of a
 15 secured party having possession or control of collateral under the Uniform
 16 Commercial Code, is amended to read as follows:

17 (c) Except as otherwise provided in subsection (d), a secured party
 18 having possession of collateral or control of collateral under § 4-7-106, §
 19 4-9-104, § 4-9-105, § 4-9-105A, § 4-9-106, ~~or § 4-9-107~~, or § 4-9-107A:

20 (1) may hold as additional security any proceeds, except money
 21 or funds, received from the collateral;

22 (2) shall apply money or funds received from the collateral to
 23 reduce the secured obligation, unless remitted to the debtor; and

24 (3) may create a security interest in the collateral.

25
 26 SECTION 54. Arkansas Code § 4-9-208(b), concerning the additional
 27 duties of a secured party having control of collateral in the Uniform
 28 Commercial Code, is amended to read as follows:

29 (b) Within ten (10) days after receiving ~~an authenticated~~ a signed
 30 demand by the debtor:

31 (1) a secured party having control of a deposit account under §
 32 4-9-104(a)(2) shall send to the bank with which the deposit account is
 33 maintained ~~an authenticated statement~~ a signed record that releases the bank
 34 from any further obligation to comply with instructions originated by the
 35 secured party;

36 (2) a secured party having control of a deposit account under §

1 4-9-104(a)(3) shall:

2 (A) pay the debtor the balance on deposit in the deposit
3 account; or

4 (B) transfer the balance on deposit into a deposit account
5 in the debtor's name;

6 (3) a secured party, other than a buyer, having control of
7 ~~electronic chattel paper~~ under § 4-9-105 shall:

8 ~~(A) communicate the authoritative copy of the electronic~~
9 ~~chattel paper to the debtor or its designated custodian;~~

10 ~~(B) if the debtor designates a custodian that is the~~
11 ~~designated custodian with which the authoritative copy of the electronic~~
12 ~~chattel paper is maintained for the secured party, communicate to the~~
13 ~~custodian an authenticated record releasing the designated custodian from any~~
14 ~~further obligation to comply with instructions originated by the secured~~
15 ~~party and instructing the custodian to comply with instructions originated by~~
16 ~~the debtor; and~~

17 ~~(C) take appropriate action to enable the debtor or its~~
18 ~~designated custodian to make copies of or revisions to the authoritative copy~~
19 ~~which add or change an identified assignee of the authoritative copy without~~
20 ~~the consent of the secured party of an authoritative electronic copy of a~~
21 ~~record evidencing chattel paper shall transfer control of the electronic copy~~
22 ~~to the debtor or a person designated by the debtor;~~

23 (4) a secured party having control of investment property under
24 § 4-8-106(d)(2) or § 4-9-106(b) shall send to the securities intermediary or
25 commodity intermediary with which the security entitlement or commodity
26 contract is maintained ~~an authenticated~~ a signed record that releases the
27 securities intermediary or commodity intermediary from any further obligation
28 to comply with entitlement orders or directions originated by the secured
29 party;

30 (5) a secured party having control of a letter-of-credit right
31 under § 4-9-107 shall send to each person having an unfulfilled obligation to
32 pay or deliver proceeds of the letter of credit to the secured party ~~an~~
33 ~~authenticated~~ a signed release from any further obligation to pay or deliver
34 proceeds of the letter of credit to the secured party; ~~and~~

35 (6) a secured party having control under § 4-7-106 of an
36 authoritative electronic copy of an electronic document of title shall:

1 transfer control of the electronic copy to the debtor or a person designated
 2 by the debtor;

3 ~~(A) give control of the electronic document to the debtor~~
 4 ~~or its designated custodian;~~

5 ~~(B) if the debtor designates a custodian that is the~~
 6 ~~designated custodian with which the authoritative copy of the electronic~~
 7 ~~document is maintained for the secured party, communicate to the custodian an~~
 8 ~~authenticated record releasing the designated custodian from any further~~
 9 ~~obligation to comply with instructions originated by the secured party and~~
 10 ~~instructing the custodian to comply with instructions originated by the~~
 11 ~~debtor; and~~

12 ~~(C) take appropriate action to enable the debtor or its~~
 13 ~~designated custodian to make copies of or revisions to the authoritative copy~~
 14 ~~which add or change an identified assignee of the authoritative copy without~~
 15 ~~the consent of the secured party~~

16 (7) a secured party having control under § 4-9-105A of
 17 electronic money shall transfer control of the electronic money to the debtor
 18 or a person designated by the debtor; and

19 (8) a secured party having control under § 4-12-105 of a
 20 controllable electronic record, other than a buyer of a controllable account
 21 or controllable payment intangible evidenced by the controllable electronic
 22 record, shall transfer control of the controllable electronic record to the
 23 debtor or a person designated by the debtor.

24
 25 SECTION 55. Arkansas Code § 4-9-209(b), concerning the duties of a
 26 secured party if an account debtor has been notified of an assignment in the
 27 Uniform Commercial Code, is amended to read as follows:

28 (b) Within ten (10) days after receiving ~~an authenticated~~ a signed
 29 demand by the debtor, a secured party shall send to an account debtor that
 30 has received notification under § 4-9-406(a) or § 4-12-106(b) of an
 31 assignment to the secured party as assignee ~~under § 4-9-406(a) an~~
 32 ~~authenticated~~ a signed record that releases the account debtor from any
 33 further obligation to the secured party.

34
 35 SECTION 56. Arkansas Code § 4-9-210 is amended to read as follows:

36 4-9-210. Request for accounting – Request regarding list of collateral

1 or statement of account.

2 (a) In this section:

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

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

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

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

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

24 (1) in the case of a request for an accounting, by
25 ~~authenticating~~ signing and sending to the debtor an accounting; and

26 (2) in the case of a request regarding a list of collateral or a
27 request regarding a statement of account, by ~~authenticating~~ signing and
28 sending to the debtor an approval or correction.

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

34 (d) A person that receives a request regarding a list of collateral,
35 claims no interest in the collateral when it receives the request, and
36 claimed an interest in the collateral at an earlier time shall comply with

1 the request within fourteen (14) days after receipt by sending to the debtor
2 ~~an authenticated~~ a signed record:

3 (1) disclaiming any interest in the collateral; and

4 (2) if known to the recipient, providing the name and mailing
5 address of any assignee of or successor to the recipient's interest in the
6 collateral.

7 (e) A person that receives a request for an accounting or a request
8 regarding a statement of account, claims no interest in the obligations when
9 it receives the request, and claimed an interest in the obligations at an
10 earlier time shall comply with the request within fourteen (14) days after
11 receipt by sending to the debtor ~~an authenticated~~ a signed record:

12 (1) disclaiming any interest in the obligations; and

13 (2) if known to the recipient, providing the name and mailing
14 address of any assignee of or successor to the recipient's interest in the
15 obligations.

16 (f) A debtor is entitled without charge to one response to a request
17 under this section during any six-month period. The secured party may require
18 payment of a charge not exceeding twenty-five dollars (\$25) for each
19 additional response.

20
21 SECTION 57. Arkansas Code § 4-9-301 is amended to read as follows:

22 4-9-301. Law governing perfection and priority of security interests.

23 Except as otherwise provided in §§ 4-9-303 – ~~4-9-306~~ 4-9-306B, the
24 following rules determine the law governing perfection, the effect of
25 perfection or nonperfection, and the priority of a security interest in
26 collateral:

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

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

35 (3) Except as otherwise provided in paragraph (4) of this
36 section, while tangible negotiable documents, goods, instruments, or tangible

1 money, ~~or tangible chattel paper~~ is located in a jurisdiction, the local law
2 of that jurisdiction governs:

3 (A) perfection of a security interest in the goods by
4 filing a fixture filing;

5 (B) perfection of a security interest in timber to be cut;
6 and

7 (C) the effect of perfection or nonperfection and the
8 priority of a nonpossessory security interest in the collateral.

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

13
14 SECTION 58. Arkansas Code § 4-9-304(a), concerning the law governing
15 perfection and priority of security interests in deposit accounts in the
16 Uniform Commercial Code, is amended to read as follows:

17 (a) The local law of a bank's jurisdiction governs perfection, the
18 effect of perfection or nonperfection, and the priority of a security
19 interest in a deposit account maintained with that bank even if the
20 transaction does not bear any relation to the bank's jurisdiction.

21
22 SECTION 59. Arkansas Code § 4-9-305(a), concerning the law governing
23 perfection and priority of security interests in investment property in the
24 Uniform Commercial Code, is amended to add an additional subdivision to read
25 as follows:

26 (5) Paragraphs (2), (3), and (4) apply even if the transaction
27 does not bear any relation to the jurisdiction.

28
29 SECTION 60. Arkansas Code Title 4, Chapter 9, Subchapter 3, is amended
30 to add additional sections to read as follows:

31 4-9-306A. Law governing perfection and priority of security
32 interests in chattel paper.

33 (a) Except as provided in subsection (d), if chattel paper is
34 evidenced only by an authoritative electronic copy of the chattel paper or is
35 evidenced by an authoritative electronic copy and an authoritative tangible
36 copy, the local law of the chattel paper's jurisdiction governs perfection,

1 the effect of perfection or nonperfection, and the priority of a security
2 interest in the chattel paper, even if the transaction does not bear any
3 relation to the chattel paper's jurisdiction.

4 (b) The following rules determine the chattel paper's jurisdiction
5 under this section:

6 (1) If the authoritative electronic copy of the record
7 evidencing chattel paper, or a record attached to or logically associated
8 with the electronic copy and readily available for review, expressly provides
9 that a particular jurisdiction is the chattel paper's jurisdiction for
10 purposes of this part, this chapter, or the Uniform Commercial Code, that
11 jurisdiction is the chattel paper's jurisdiction.

12 (2) If paragraph (1) does not apply and the rules of the system
13 in which the authoritative electronic copy is recorded are readily available
14 for review and expressly provide that a particular jurisdiction is the
15 chattel paper's jurisdiction for purposes of this part, this chapter, or the
16 Uniform Commercial Code, that jurisdiction is the chattel paper's
17 jurisdiction.

18 (3) If paragraphs (1) and (2) do not apply and the authoritative
19 electronic copy, or a record attached to or logically associated with the
20 electronic copy and readily available for review, expressly provides that the
21 chattel paper is governed by the law of a particular jurisdiction, that
22 jurisdiction is the chattel paper's jurisdiction.

23 (4) If paragraphs (1), (2), and (3) do not apply and the rules
24 of the system in which the authoritative electronic copy is recorded are
25 readily available for review and expressly provide that the chattel paper or
26 the system is governed by the law of a particular jurisdiction, that
27 jurisdiction is the chattel paper's jurisdiction.

28 (5) If paragraphs (1) through (4) do not apply, the chattel
29 paper's jurisdiction is the jurisdiction in which the debtor is located.

30 (c) If an authoritative tangible copy of a record evidences chattel
31 paper and the chattel paper is not evidenced by an authoritative electronic
32 copy, while the authoritative tangible copy of the record evidencing chattel
33 paper is located in a jurisdiction, the local law of that jurisdiction
34 governs:

35 (1) perfection of a security interest in the chattel paper by
36 possession under § 4-9-314A; and

1 (2) the effect of perfection or nonperfection and the priority
2 of a security interest in the chattel paper.

3 (d) The local law of the jurisdiction in which the debtor is located
4 governs perfection of a security interest in chattel paper by filing.

5
6 4-9-306B. Law governing perfection and priority of security
7 interests in controllable accounts, controllable electronic records, and
8 controllable payment intangibles.

9 (a) Except as provided in subsection (b), the local law of the
10 controllable electronic record's jurisdiction specified in § 4-12-107(c) and
11 (d) governs perfection, the effect of perfection or nonperfection, and the
12 priority of a security interest in a controllable electronic record and a
13 security interest in a controllable account or controllable payment
14 intangible evidenced by the controllable electronic record.

15 (b) The local law of the jurisdiction in which the debtor is located
16 governs:

17 (1) perfection of a security interest in a controllable account,
18 controllable electronic record, or controllable payment intangible by filing;
19 and

20 (2) automatic perfection of a security interest in a
21 controllable payment intangible created by a sale of the controllable payment
22 intangible.

23
24 SECTION 61. Arkansas Code § 4-9-310(b), concerning when the filing of
25 a financing statement is not a requirement to perfect a security interest in
26 the Uniform Commercial Code, is amended to read as follows:

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

29 (1) that is perfected under § 4-9-308(d), (e), (f), or (g);

30 (2) that is perfected under § 4-9-309 when it attaches;

31 (3) in property subject to a statute, regulation, or treaty
32 described in § 4-9-311(a);

33 (4) in goods in possession of a bailee which is perfected under
34 § 4-9-312(d)(1) or (2);

35 (5) in certificated securities, documents, goods, or instruments
36 which is perfected without filing or possession under § 4-9-312(e), (f), or

1 (g);

2 (6) in collateral in the secured party's possession under § 4-9-
3 313;

4 (7) in a certificated security which is perfected by delivery of
5 the security certificate to the secured party under § 4-9-313;

6 (8) in controllable accounts, controllable electronic records,
7 controllable payment intangibles, deposit accounts, ~~electronic chattel paper,~~
8 electronic documents, investment property, ~~virtual currencies,~~ or letter-of-
9 credit rights which is perfected by control under § 4-9-314;

10 (8)(1) in chattel paper which is perfected by possession and
11 control under § 4-9-314A;

12 (9) in proceeds which is perfected under § 4-9-315; or

13 (10) that is perfected under § 4-9-316.

14

15 SECTION 62. Arkansas Code § 4-9-312 is amended to read as follows:

16 4-9-312. Perfection of security interests in chattel paper,
17 controllable accounts, controllable electronic records, controllable payment
18 intangibles, deposit accounts, documents, goods covered by documents,
19 instruments, investment property, ~~virtual currencies,~~ letter-of-credit
20 rights, and money – Perfection by permissive filing – Temporary perfection
21 without filing or transfer of possession.

22 (a) A security interest in chattel paper, ~~negotiable documents,~~
23 controllable accounts, controllable electronic records, controllable payment
24 intangibles, instruments, investment property, ~~and virtual currencies or~~
25 negotiable documents may be perfected by filing.

26 (b) Except as otherwise provided in § 4-9-315(c) and (d) for proceeds:

27 (1) a security interest in a deposit account may be perfected
28 only by control under § 4-9-314;

29 (2) and except as otherwise provided in § 4-9-308(d), a security
30 interest in a letter-of-credit right may be perfected only by control under §
31 4-9-314; ~~and~~

32 (3) a security interest in tangible money may be perfected only
33 by the secured party's taking possession under § 4-9-313; and

34 (4) a security interest in electronic money may be perfected
35 only by control under § 4-9-314.

36 (c) While goods are in the possession of a bailee that has issued a

1 negotiable document covering the goods:

2 (1) a security interest in the goods may be perfected by
3 perfecting a security interest in the document; and

4 (2) a security interest perfected in the document has priority
5 over any security interest that becomes perfected in the goods by another
6 method during that time.

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

10 (1) issuance of a document in the name of the secured party;

11 (2) the bailee's receipt of notification of the secured party's
12 interest; or

13 (3) filing as to the goods.

14 (e) A security interest in certificated securities, negotiable
15 documents, or instruments is perfected without filing or the taking of
16 possession or control for a period of twenty (20) days from the time it
17 attaches to the extent that it arises for new value given under ~~an~~
18 ~~authenticated~~ a signed security agreement.

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

24 (1) ultimate sale or exchange; or

25 (2) loading, unloading, storing, shipping, transshipping,
26 manufacturing, processing, or otherwise dealing with them in a manner
27 preliminary to their sale or exchange.

28 (g) A perfected security interest in a certificated security or
29 instrument remains perfected for twenty (20) days without filing if the
30 secured party delivers the security certificate or instrument to the debtor
31 for the purpose of:

32 (1) ultimate sale or exchange; or

33 (2) presentation, collection, enforcement, renewal, or
34 registration of transfer.

35 (h) After the twenty-day period specified in subsection (e), (f), or
36 (g) expires, perfection depends upon compliance with this chapter.

1
2 SECTION 63. Arkansas Code § 4-9-313(a), concerning when possession by
3 or delivery to a secured party perfects a security interest without filing in
4 the Uniform Commercial Code, is amended to read as follows:

5 (a) Except as otherwise provided in subsection (b), a secured party
6 may perfect a security interest in ~~tangible negotiable documents~~, goods,
7 instruments, negotiable tangible documents, or tangible money, ~~or tangible~~
8 ~~chattel paper~~ by taking possession of the collateral. A secured party may
9 perfect a security interest in certificated securities by taking delivery of
10 the certificated securities under § 4-8-301.

11
12 SECTION 64. Arkansas Code § 4-9-313(c), concerning when a secured
13 party takes possession of collateral in the Uniform Commercial Code, is
14 amended to read as follows:

15 (c) With respect to collateral other than certificated securities and
16 goods covered by a document, a secured party takes possession of collateral
17 in the possession of a person other than the debtor, the secured party, or a
18 lessee of the collateral from the debtor in the ordinary course of the
19 debtor's business, when:

20 (1) the person in possession ~~authenticates~~ signs a record
21 acknowledging that it holds possession of the collateral for the secured
22 party's benefit; or

23 (2) the person takes possession of the collateral after having
24 ~~authenticated~~ signed a record acknowledging that it will hold possession of
25 the collateral for the secured party's benefit.

26
27 SECTION 65. Arkansas Code § 4-9-313(d), concerning the timeline of
28 perfection of a security interests dependent upon possession in the Uniform
29 Commercial Code, is amended to read as follows:

30 (d) If perfection of a security interest depends upon possession of
31 the collateral by a secured party, perfection occurs ~~no~~ not earlier than the
32 time the secured party takes possession and continues only while the secured
33 party retains possession.

34
35 SECTION 66. Arkansas Code § 4-9-314 is amended to read as follows:
36 4-9-314. Perfection by control.

1 (a) A security interest in ~~investment property, deposit accounts,~~
 2 ~~letter-of-credit rights, virtual currencies, electronic chattel paper, or~~
 3 ~~electronic documents~~ controllable accounts, controllable electronic records,
 4 controllable payment intangibles, deposit accounts, electronic documents,
 5 electronic money, investment property, or letter-of-credit rights may be
 6 perfected by control of the collateral under § 4-7-106, § 4-9-104, ~~§ 4-9-105~~
 7 § 4-9-105A, § 4-9-106, ~~or § 4-9-107,~~ or § 4-9-107A.

8 (b) A security interest in ~~deposit accounts, electronic chattel paper,~~
 9 ~~virtual currencies, letter-of-credit rights, or electronic documents~~
 10 controllable accounts, controllable electronic records, controllable payment
 11 intangibles, deposit accounts, electronic documents, electronic money, or
 12 letter-of-credit rights is perfected by control under § 4-7-106, § 4-9-104, §
 13 ~~4-9-105~~ § 4-9-105A, ~~§ 4-9-106,~~ ~~or § 4-9-107,~~ or § 4-9-107A when not earlier
 14 than the time the secured party obtains control and remains perfected by
 15 control only while the secured party retains control.

16 (c) A security interest in investment property is perfected by control
 17 under § 4-9-106 ~~from~~ not earlier than the time the secured party obtains
 18 control and remains perfected by control until:

19 (1) the secured party does not have control; and

20 (2) one of the following occurs:

21 (A) if the collateral is a certificated security, the
 22 debtor has or acquires possession of the security certificate;

23 (B) if the collateral is an uncertificated security, the
 24 issuer has registered or registers the debtor as the registered owner; or

25 (C) if the collateral is a security entitlement, the
 26 debtor is or becomes the entitlement holder.

27
 28 SECTION 67. Arkansas Code Title 4, Chapter 9, Subchapter 3, is amended
 29 to add an additional section to read as follows:

30 4-9-314A. Perfection by possession and control of chattel paper.

31 (a) A secured party may perfect a security interest in chattel paper
 32 by taking possession of each authoritative tangible copy of the record
 33 evidencing the chattel paper and obtaining control of each authoritative
 34 electronic copy of the electronic record evidencing the chattel paper.

35 (b) A security interest is perfected under subsection (a) not earlier
 36 than the time the secured party takes possession and obtains control and

1 remains perfected under subsection (a) only while the secured party retains
2 possession and control.

3 (c) Section 4-9-313(c) and (f) through (i) applies to perfection by
4 possession of an authoritative tangible copy of a record evidencing chattel
5 paper.

6
7 SECTION 68. Arkansas Code § 4-9-316(a), concerning the effect of
8 change in governing law in the Uniform Commercial Code, is amended to read
9 as follows:

10 (a) A security interest perfected pursuant to the law of the
11 jurisdiction designated in § 4-9-301(1), ~~or § 4-9-305(c)~~, § 4-9-306A(d), or §
12 4-9-306(B)(b) remains perfected until the earliest of:

13 (1) the time perfection would have ceased under the law of that
14 jurisdiction;

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

17 (3) the expiration of one (1) year after a transfer of
18 collateral to a person that thereby becomes a debtor and is located in
19 another jurisdiction.

20
21 SECTION 69. Arkansas Code § 4-9-316(f), concerning the effect of
22 change in governing law in the Uniform Commercial Code, is amended to read as
23 follows:

24 (f) A security interest in chattel paper, controllable accounts,
25 controllable electronic records, controllable payment intangibles, deposit
26 accounts, letter-of-credit rights, or investment property which is perfected
27 under the law of the chattel paper's jurisdiction, the controllable
28 electronic record's jurisdiction, the bank's jurisdiction, the issuer's
29 jurisdiction, a nominated person's jurisdiction, the securities
30 intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as
31 applicable, remains perfected until the earlier of:

32 (1) the time the security interest would have become unperfected
33 under the law of that jurisdiction; or

34 (2) the expiration of four (4) months after a change of the
35 applicable jurisdiction to another jurisdiction.

36

1 SECTION 70. Arkansas Code § 4-9-317 is amended to read as follows:

2 4-9-317. Interests that take priority over or take free of security
3 interest or agricultural lien.

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

6 (1) a person entitled to priority under § 4-9-322; and

7 (2) except as otherwise provided in subsection (e), a person
8 that becomes a lien creditor before the earlier of the time:

9 (A) the security interest or agricultural lien is
10 perfected; or

11 (B) one of the conditions specified in § 4-9-203(b)(3) is
12 met and a financing statement covering the collateral is filed.

13 (b) Except as otherwise provided in subsection (e), a buyer, other
14 than a secured party, ~~of tangible chattel paper, tangible documents, of~~
15 goods, instruments, tangible documents, or a certificated security takes free
16 of a security interest or agricultural lien if the buyer gives value and
17 receives delivery of the collateral without knowledge of the security
18 interest or agricultural lien and before it is perfected.

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

23 (d) A Subject to subsections (f) through (i), a licensee of a general
24 intangible or a buyer, other than a secured party, of collateral other than
25 ~~tangible chattel paper, tangible documents, electronic money~~, goods,
26 instruments, or a certificated security takes free of a security interest if
27 the licensee or buyer gives value without knowledge of the security interest
28 and before it is perfected.

29 (e) Except as otherwise provided in §§ 4-9-320 and 4-9-321, if a
30 person files a financing statement with respect to a purchase-money security
31 interest before or within twenty (20) days after the debtor receives delivery
32 of the collateral, the security interest takes priority over the rights of a
33 buyer, lessee, or lien creditor which arise between the time the security
34 interest attaches and the time of filing.

35 (f) A buyer, other than a secured party, of chattel paper takes free
36 of a security interest if, without knowledge of the security interest and

1 before it is perfected, the buyer gives value and:

2 (1) receives delivery of each authoritative tangible copy of the
3 record evidencing the chattel paper; and

4 (2) if each authoritative electronic copy of the record
5 evidencing the chattel paper can be subjected to control under § 4-9-105,
6 obtains control of each authoritative electronic copy.

7 (g) A buyer of an electronic document takes free of a security
8 interest if, without knowledge of the security interest and before it is
9 perfected, the buyer gives value and, if each authoritative electronic copy
10 of the document can be subjected to control under § 4-7-106, obtains control
11 of each authoritative electronic copy.

12 (h) A buyer of a controllable electronic record takes free of a
13 security interest if, without knowledge of the security interest and before
14 it is perfected, the buyer gives value and obtains control of the
15 controllable electronic record.

16 (i) A buyer, other than a secured party, of a controllable account or
17 a controllable payment intangible takes free of a security interest if,
18 without knowledge of the security interest and before it is perfected, the
19 buyer gives value and obtains control of the controllable account or
20 controllable payment intangible.

21
22 SECTION 71. Arkansas Code § 4-9-323(d), concerning future advances in
23 the Uniform Commercial Code, is amended to read as follows:

24 (d) Except as otherwise provided in subsection (e), a buyer of goods
25 ~~other than a buyer in ordinary course of business~~ takes free of a security
26 interest to the extent that it secures advances made after the earlier of:

27 (1) the time the secured party acquires knowledge of the buyer's
28 purchase; or

29 (2) forty-five (45) days after the purchase.

30
31 SECTION 72. Arkansas Code § 4-9-323(f), concerning future advances in
32 the Uniform Commercial Code, is amended to read as follows:

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

- 1 (1) the time the secured party acquires knowledge of the lease;
2 or
3 (2) forty-five (45) days after the lease contract becomes
4 enforceable.

5
6 SECTION 73. Arkansas Code § 4-9-324(b), concerning the priority of
7 purchase-money security interests in the Uniform Commercial Code, is amended
8 to read as follows:

9 (b) Subject to subsection (c) and except as otherwise provided in
10 subsection (g), a perfected purchase-money security interest in inventory has
11 priority over a conflicting security interest in the same inventory, has
12 priority over a conflicting security interest in chattel paper or an
13 instrument constituting proceeds of the inventory and in proceeds of the
14 chattel paper, if so provided in § 4-9-330, and, except as otherwise provided
15 in § 4-9-327, also has priority in identifiable cash proceeds of the
16 inventory to the extent the identifiable cash proceeds are received on or
17 before the delivery of the inventory to a buyer, if:

18 (1) the purchase-money security interest is perfected when the
19 debtor receives possession of the inventory;

20 (2) the purchase-money secured party sends ~~an authenticated a~~
21 signed notification to the holder of the conflicting security interest;

22 (3) the holder of the conflicting security interest receives the
23 notification within five (5) years before the debtor receives possession of
24 the inventory; and

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

28
29 SECTION 74. Arkansas Code § 4-9-324(d), concerning the priority of
30 purchase-money security interests in the Uniform Commercial Code, is amended
31 to read as follows:

32 (d) Subject to subsection (e) and except as otherwise provided in
33 subsection (g), a perfected purchase-money security interest in livestock
34 that are farm products has priority over a conflicting security interest in
35 the same livestock, and, except as otherwise provided in § 4-9-327, a
36 perfected security interest in their identifiable proceeds and identifiable

1 products in their unmanufactured states also has priority, if:

2 (1) the purchase-money security interest is perfected when the
3 debtor receives possession of the livestock;

4 (2) the purchase-money secured party sends ~~an authenticated a~~
5 signed notification to the holder of the conflicting security interest;

6 (3) the holder of the conflicting security interest receives the
7 notification within six months before the debtor receives possession of the
8 livestock; and

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

12
13 SECTION 75. Arkansas Code Title 4, Chapter 9, Subchapter 3, is amended
14 to add an additional section to read as follows:

15 4-9-326A. Priority of security interest in controllable account,
16 controllable electronic record, and controllable payment intangible.

17 A security interest in a controllable account, controllable electronic
18 record, or controllable payment intangible held by a secured party having
19 control of the account, electronic record, or payment intangible has priority
20 over a conflicting security interest held by a secured party that does not
21 have control.

22
23 SECTION 76. Arkansas Code § 4-9-330 is amended to read as follows:

24 4-9-330. Priority of purchaser of chattel paper or instrument.

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

28 (1) in good faith and in the ordinary course of the purchaser's
29 business, the purchaser gives new value, ~~and~~ takes possession of each
30 authoritative tangible copy of the record evidencing the chattel paper, ~~or~~
31 and obtains control of under § 4-9-105 of each authoritative electronic copy
32 of the record evidencing the chattel paper ~~under § 4-9-105~~; and

33 (2) the ~~chattel paper does~~ authoritative copies of the record
34 evidencing the chattel paper do not indicate that it the chattel paper has
35 been assigned to an identified assignee other than the purchaser.

36 (b) A purchaser of chattel paper has priority over a security interest

1 in the chattel paper which is claimed other than merely as proceeds of
 2 inventory subject to a security interest if the purchaser gives new value,
 3 ~~and~~ takes possession of each authoritative tangible copy of the record
 4 evidencing the chattel paper, ~~or~~ and obtains control ~~of~~ under § 4-9-105 of
 5 each authoritative electronic copy of the record evidencing the chattel paper
 6 ~~under § 4-9-105~~ in good faith, in the ordinary course of the purchaser's
 7 business, and without knowledge that the purchase violates the rights of the
 8 secured party.

9 (c) Except as otherwise provided in § 4-9-327, a purchaser having
 10 priority in chattel paper under subsection (a) or (b) also has priority in
 11 proceeds of the chattel paper to the extent that:

12 (1) § 4-9-322 provides for priority in the proceeds; or

13 (2) the proceeds consist of the specific goods covered by the
 14 chattel paper or cash proceeds of the specific goods, even if the purchaser's
 15 security interest in the proceeds is unperfected.

16 (d) Except as otherwise provided in § 4-9-331(a), a purchaser of an
 17 instrument has priority over a security interest in the instrument perfected
 18 by a method other than possession if the purchaser gives value and takes
 19 possession of the instrument in good faith and without knowledge that the
 20 purchase violates the rights of the secured party.

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

24 (f) For purposes of subsections (b) and (d), if the authoritative
 25 copies of the record evidencing chattel paper or an instrument ~~indicates~~
 26 indicate that ~~it~~ the chattel paper or instrument has been assigned to an
 27 identified secured party other than the purchaser, a purchaser of the chattel
 28 paper or instrument has knowledge that the purchase violates the rights of
 29 the secured party.

30
 31 SECTION 77 Arkansas Code § 4-9-331 is amended to read as follows:

32 4-9-331. Priority of rights of purchasers of ~~instruments~~ controllable
 33 accounts, controllable electronic records, controllable payment intangibles,
 34 documents, instruments, and securities, ~~and virtual currencies~~ under other
 35 chapters – Priority of interests in financial assets and security
 36 entitlements and protection against assertion of claim under Chapter 8 and

1 ~~virtual currencies under Chapter 11~~ Chapter 12.

2 (a) This chapter does not limit the rights of a holder in due course
3 of a negotiable instrument, a holder to which a negotiable document of title
4 has been duly negotiated, a protected purchaser of a security, or a
5 qualifying purchaser of a ~~virtual currency~~ controllable account, controllable
6 electronic record, or controllable payment intangible. These holders or
7 purchasers take priority over an earlier security interest, even if
8 perfected, to the extent provided in Chapter 3, Chapter 7, Chapter 8, and
9 ~~Chapter 11~~ Chapter 12.

10 (b) This chapter does not limit the rights of or impose liability on a
11 person to the extent that the person is protected against the assertion of a
12 claim under Chapter 8 or ~~Chapter 11~~ Chapter 12.

13 (c) Filing under this chapter does not constitute notice of a claim or
14 defense to the holders, or purchasers, or persons described in subsections
15 (a) and (b).

16
17 SECTION 78. Arkansas Code § 4-9-332 is amended to read as follows:

18 4-9-332. Transfer of money – Transfer of funds from deposit account.

19 (a) A transferee of tangible money takes the money free of a security
20 interest ~~unless the transferee acts~~ if the transferee receives possession of
21 the money without acting in collusion with the debtor in violating the rights
22 of the secured party.

23 (b) A transferee of funds from a deposit account takes the funds free
24 of a security interest in the deposit account ~~unless the transferee acts~~ if
25 the transferee receives the funds without acting in collusion with the debtor
26 in violating the rights of the secured party.

27 (c) A transferee of electronic money takes the money free of a
28 security interest if the transferee obtains control of the money without
29 acting in collusion with the debtor in violating the rights of the secured
30 party.

31
32 SECTION 79. Arkansas Code § 4-9-334(f), concerning the priority of
33 security interests in fixtures and crops in the Uniform Commercial Code, is
34 amended to read as follows:

35 (f) A security interest in fixtures, whether or not perfected, has
36 priority over a conflicting interest of an encumbrancer or owner of the real

1 property if:

2 (1) the encumbrancer or owner has, in ~~an authenticated~~ a signed
3 record, consented to the security interest or disclaimed an interest in the
4 goods as fixtures; or

5 (2) the debtor has a right to remove the goods as against the
6 encumbrancer or owner.

7

8 SECTION 80. Arkansas Code § 4-9-341 is amended to read as follows:

9 4-9-341. Bank's rights and duties with respect to deposit account.

10 Except as otherwise provided in § 4-9-340(c), and unless the bank
11 otherwise agrees in ~~an authenticated~~ a signed record, a bank's rights and
12 duties with respect to a deposit account maintained with the bank are not
13 terminated, suspended, or modified by:

14 (1) the creation, attachment, or perfection of a security
15 interest in the deposit account;

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

17 (3) the bank's receipt of instructions from the secured party.

18

19 SECTION 81. Arkansas Code § 4-9-404(a), concerning the rights acquired
20 by an assignee in the Uniform Commercial Code, is amended to read as follows:

21 (a) Unless an account debtor has made an enforceable agreement not to
22 assert defenses or claims, and subject to subsections (b)-(e), the rights of
23 an assignee are subject to:

24 (1) all terms of the agreement between the account debtor and
25 assignor and any defense or claim in recoupment arising from the transaction
26 that gave rise to the contract; and

27 (2) any other defense or claim of the account debtor against the
28 assignor which accrues before the account debtor receives a notification of
29 the assignment ~~authenticated~~ signed by the assignor or the assignee.

30

31 SECTION 82. Arkansas Code § 4-9-406 is amended to read as follows:

32 4-9-406. Discharge of account debtor – Notification of assignment –
33 Identification and proof of assignment – Restrictions on assignment of
34 accounts, chattel paper, payment intangibles, and promissory notes
35 ineffective.

36 (a) Subject to subsections (b)-(i) and (k), an account debtor on an

1 account, chattel paper, or a payment intangible may discharge its obligation
 2 by paying the assignor until, but not after, the account debtor receives a
 3 notification, ~~authenticated~~ signed by the assignor or the assignee, that the
 4 amount due or to become due has been assigned and that payment is to be made
 5 to the assignee. After receipt of the notification, the account debtor may
 6 discharge its obligation by paying the assignee and may not discharge the
 7 obligation by paying the assignor.

8 (b) Subject to ~~subsection (h)~~ subsections (h) and (k), notification is
 9 ineffective under subsection (a):

10 (1) if it does not reasonably identify the rights assigned;

11 (2) to the extent that an agreement between an account debtor
 12 and a seller of a payment intangible limits the account debtor's duty to pay
 13 a person other than the seller and the limitation is effective under law
 14 other than this chapter; or

15 (3) at the option of an account debtor, if the notification
 16 notifies the account debtor to make less than the full amount of any
 17 installment or other periodic payment to the assignee, even if:

18 (A) only a portion of the account, chattel paper, or
 19 payment intangible has been assigned to that assignee;

20 (B) a portion has been assigned to another assignee; or

21 (C) the account debtor knows that the assignment to that
 22 assignee is limited.

23 (c) Subject to ~~subsection (h)~~ subsections (h) and (k), if requested by
 24 the account debtor, an assignee shall seasonably furnish reasonable proof
 25 that the assignment has been made. Unless the assignee complies, the account
 26 debtor may discharge its obligation by paying the assignor, even if the
 27 account debtor has received a notification under subsection (a).

28 (d) ~~Except~~ In this subsection, "promissory note" includes a negotiable
 29 instrument that evidences chattel paper, except as otherwise provided in
 30 subsection (e) and §§ 4-2A-303 and 4-9-407, and subject to subsection (h), a
 31 term in an agreement between an account debtor and an assignor or in a
 32 promissory note is ineffective to the extent that it:

33 (1) prohibits, restricts, or requires the consent of the account
 34 debtor or person obligated on the promissory note to the assignment or
 35 transfer of, or the creation, attachment, perfection, or enforcement of a
 36 security interest in, the account, chattel paper, payment intangible, or

1 promissory note; or

2 (2) provides that the assignment or transfer or the creation,
3 attachment, perfection, or enforcement of the security interest may give rise
4 to a default, breach, right of recoupment, claim, defense, termination, right
5 of termination, or remedy under the account, chattel paper, payment
6 intangible, or promissory note.

7 (e) Subsection (d) does not apply to the sale of a payment intangible
8 or promissory note, other than a sale pursuant to a disposition under § 4-9-
9 610 or an acceptance of collateral under § 4-9-620.

10 (f) Except as otherwise provided in §§ 4-2A-303 and 4-9-407 and
11 subject to subsections (h) and (i), a rule of law, statute, or regulation
12 that prohibits, restricts, or requires the consent of a government,
13 governmental body or official, or account debtor to the assignment or
14 transfer of, or creation of a security interest in, an account or chattel
15 paper is ineffective to the extent that the rule of law, statute, or
16 regulation:

17 (1) prohibits, restricts, or requires the consent of the
18 government, governmental body or official, or account debtor to the
19 assignment or transfer of, or the creation, attachment, perfection, or
20 enforcement of a security interest in the account or chattel paper; or

21 (2) provides that the assignment or transfer or the creation,
22 attachment, perfection, or enforcement of the security interest may give rise
23 to a default, breach, right of recoupment, claim, defense, termination, right
24 of termination, or remedy under the account or chattel paper.

25 (g) Subject to ~~subsection (h)~~ subsections (h) and (k), an account
26 debtor may not waive or vary its option under subsection (b)(3).

27 (h) This section is subject to law other than this chapter which
28 establishes a different rule for an account debtor who is an individual and
29 who incurred the obligation primarily for personal, family, or household
30 purposes.

31 (i) This section does not apply to an assignment of a health-care-
32 insurance receivable. Subsections (d) and (f) do not apply to assignment or
33 transfer of, or the creation, attachment, perfection, or enforcement of a
34 security interest in:

35 (1) a right the assignment or transfer of which is prohibited or
36 restricted by § 11-9-110(a).

1 (2) a claim or right to receive amounts (whether by suit or
2 agreement and whether as lump sums or as periodic payments) as damages (other
3 than punitive damages) on account of personal physical injuries or physical
4 sickness.

5 (3) a claim or right to receive benefits under a special needs
6 trust as described in 42 U.S.C. § 1396p(d)(4).

7 (j) Except to the extent otherwise provided in subsection (i), this
8 section prevails over any inconsistent provision of an existing or future
9 statute, rule or regulation of this state unless the provision is contained
10 in a statute of this state, refers expressly to this section and states that
11 the provision prevails over this section.

12 (k) Subsections (a), (b), (c), and (g) do not apply to a controllable
13 account or controllable payment intangible.

14
15 SECTION 83. Arkansas Code § 4-9-408, concerning restrictions on
16 assignment of promissory notes, health-care-insurance receivables, and
17 certain general intangibles ineffective in the Uniform Commercial Code, is
18 amended to add an additional subsection to read as follows:

19 (g) In this section, "promissory note" includes a negotiable
20 instrument that evidences chattel paper.

21
22 SECTION 84. Arkansas Code § 4-9-509(a) and (b), concerning persons
23 entitled to file a record under the Uniform Commercial Code, are amended to
24 read as follows:

25 (a) A person may file an initial financing statement, amendment that
26 adds collateral covered by a financing statement, or amendment that adds a
27 debtor to a financing statement only if:

28 (1) the debtor authorizes the filing in ~~an authenticated a~~
29 signed record or pursuant to subsection (b) or (c); or

30 (2) the person holds an agricultural lien that has become
31 effective at the time of filing and the financing statement covers only
32 collateral in which the person holds an agricultural lien.

33 (b) By ~~authenticating signing~~ signing or becoming bound as debtor by a
34 security agreement, a debtor or new debtor authorizes the filing of an
35 initial financing statement, and an amendment, covering:

36 (1) the collateral described in the security agreement; and

1 (2) property that becomes collateral under § 4-9-315(a)(2),
2 whether or not the security agreement expressly covers proceeds.

3
4 SECTION 85. Arkansas Code § 4-9-513(b) and (c), concerning the
5 termination statement under the Uniform Commercial Code, are amended to read
6 as follows:

7 (b) To comply with subsection (a), a secured party shall cause the
8 secured party of record to file the termination statement:

9 (1) within one (1) month after there is no obligation secured by
10 the collateral covered by the financing statement and no commitment to make
11 an advance, incur an obligation, or otherwise give value; or

12 (2) if earlier, within twenty (20) days after the secured party
13 receives ~~an authenticated~~ a signed demand from a debtor.

14 (c) In cases not governed by subsection (a), within twenty (20) days
15 after a secured party receives ~~an authenticated~~ a signed demand from a
16 debtor, the secured party shall cause the secured party of record for a
17 financing statement to send to the debtor a termination statement for the
18 financing statement or file the termination statement in the filing office
19 if:

20 (1) except in the case of a financing statement covering
21 accounts or chattel paper that has been sold or goods that are the subject of
22 a consignment, there is no obligation secured by the collateral covered by
23 the financing statement and no commitment to make an advance, incur an
24 obligation, or otherwise give value;

25 (2) the financing statement covers accounts or chattel paper
26 that has been sold but as to which the account debtor or other person
27 obligated has discharged its obligation;

28 (3) the financing statement covers goods that were the subject
29 of a consignment to the debtor but are not in the debtor's possession; or

30 (4) the debtor did not authorize the filing of the initial
31 financing statement.

32
33 SECTION 86. Arkansas Code Title 4, Chapter 5, Subchapter 5, is amended
34 to add an additional section to read as follows:

35 4-9-530. Penalty.

36 An individual who causes a record to be communicated to the filing

1 office for filing affirms under penalty of perjury that the record was not
2 filed with the intent to harass or defraud.

3
4 SECTION 87. Arkansas Code § 4-9-601(b), concerning the rights and
5 duties of a secured party in the Uniform Commercial Code, is amended to read
6 as follows:

7 (b) A secured party in possession of collateral or control of
8 collateral under § 4-7-106, § 4-9-104, § 4-9-105, § 4-9-105A, § 4-9-106, ~~or §~~
9 4-9-107, or § 4-9-107A has the rights and duties provided in § 4-9-207.

10
11 SECTION 88. Arkansas Code § 4-9-605 is amended to read as follows:
12 4-9-605. Unknown debtor or secondary obligor.

13 (a) A Except as provided in subsection (b), a secured party does not
14 owe a duty based on its status as secured party:

15 (1) to a person that is a debtor or obligor, unless the secured
16 party knows:

17 (A) that the person is a debtor or obligor;

18 (B) the identity of the person; and

19 (C) how to communicate with the person; or

20 (2) to a secured party or lienholder that has filed a financing
21 statement against a person, unless the secured party knows:

22 (A) that the person is a debtor; and

23 (B) the identity of the person.

24 (b) A secured party owes a duty based on its status as a secured party
25 to a person if, at the time the secured party obtains control of collateral
26 that is a controllable account, controllable electronic record, or
27 controllable payment intangible or at the time the security interest attaches
28 to the collateral, whichever is later:

29 (1) the person is a debtor or obligor; and

30 (2) the secured party knows that the information in subsection
31 (a)(1)(A), (B), or (C) relating to the person is not provided by the
32 collateral, a record attached to or logically associated with the collateral,
33 or the system in which the collateral is recorded.

34
35 SECTION 89. Arkansas Code § 4-9-608(a)(1), concerning the application
36 of proceeds of collection or enforcement under the Uniform Commercial Code,

1 is amended to read as follows:

2 (1) A secured party shall apply or pay over for application the
3 cash proceeds of collection or enforcement under § 4-9-607 in the following
4 order to:

5 (A) the reasonable expenses of collection and enforcement
6 and, to the extent provided for by agreement and not prohibited by law,
7 reasonable attorney's fees and legal expenses incurred by the secured party;

8 (B) the satisfaction of obligations secured by the
9 security interest or agricultural lien under which the collection or
10 enforcement is made; and

11 (C) the satisfaction of obligations secured by any
12 subordinate security interest in or other lien on the collateral subject to
13 the security interest or agricultural lien under which the collection or
14 enforcement is made if the secured party receives ~~an authenticated~~ a signed
15 demand for proceeds before distribution of the proceeds is completed.

16

17 SECTION 90. Arkansas Code § 4-9-611 is amended to read as follows:

18 4-9-611. Notification before disposition of collateral.

19 (a) In this section, "notification date" means the earlier of the date
20 on which:

21 (1) a secured party sends to the debtor and any secondary
22 obligor ~~an authenticated~~ a signed notification of disposition; or

23 (2) the debtor and any secondary obligor waive the right to
24 notification.

25 (b) Except as otherwise provided in subsection (d), a secured party
26 that disposes of collateral under § 4-9-610 shall send to the persons
27 specified in subsection (c) a reasonable ~~authenticated~~ signed notification of
28 disposition.

29 (c) To comply with subsection (b), the secured party shall send ~~an~~
30 ~~authenticated~~ a signed notification of disposition to:

31 (1) the debtor;

32 (2) any secondary obligor; and

33 (3) if the collateral is other than consumer goods:

34 (A) any other person from which the secured party has
35 received, before the notification date, ~~an authenticated~~ a signed
36 notification of a claim of an interest in the collateral;

1 (B) any other secured party or lienholder that, ten (10)
 2 days before the notification date, held a security interest in or other lien
 3 on the collateral perfected by the filing of a financing statement that:

4 (i) identified the collateral;

5 (ii) was indexed under the debtor's name as of that
 6 date; and

7 (iii) was filed in the office in which to file a
 8 financing statement against the debtor covering the collateral as of that
 9 date; and

10 (C) any other secured party that, ten (10) days before the
 11 notification date, held a security interest in the collateral perfected by
 12 compliance with a statute, regulation, or treaty described in § 4-9-311(a).

13 (d) Subsection (b) does not apply if the collateral is perishable or
 14 threatens to decline speedily in value or is of a type customarily sold on a
 15 recognized market.

16 (e) A secured party complies with the requirement for notification
 17 prescribed by subdivision (c)(3)(B) if:

18 (1) not later than twenty (20) days or earlier than thirty (30)
 19 days before the notification date, the secured party requests, in a
 20 commercially reasonable manner, information concerning financing statements
 21 indexed under the debtor's name in the office indicated in subdivision
 22 (c)(3)(B); and

23 (2) before the notification date, the secured party:

24 (A) did not receive a response to the request for
 25 information; or

26 (B) received a response to the request for information and
 27 sent ~~an authenticated~~ a signed notification of disposition to each secured
 28 party or other lienholder named in that response whose financing statement
 29 covered the collateral.

30
 31 SECTION 91. Arkansas Code § 4-9-613 is amended to read as follows:

32 4-9-613. Contents and form of notification before disposition of
 33 collateral: General.

34 (a) Except in a consumer-goods transaction, the following rules apply:

35 (1) The contents of a notification of disposition are sufficient
 36 if the notification:

- 1 (A) describes the debtor and the secured party;
- 2 (B) describes the collateral that is the subject of the
- 3 intended disposition;
- 4 (C) states the method of intended disposition;
- 5 (D) states that the debtor is entitled to an accounting of
- 6 the unpaid indebtedness and states the charge, if any, for an accounting; and
- 7 (E) states the time and place of a public disposition or
- 8 the time after which any other disposition is to be made.

9 (2) Whether the contents of a notification that lacks any of the
 10 information specified in paragraph (1) are nevertheless sufficient is a
 11 question of fact.

12 (3) The contents of a notification providing substantially the
 13 information specified in paragraph (1) are sufficient, even if the
 14 notification includes:

- 15 (A) information not specified by that paragraph; or
- 16 (B) minor errors that are not seriously misleading.

17 (4) A particular phrasing of the notification is not required.

18 (5) The following form of notification and the form appearing in
 19 ~~§ 4-9-614(3)~~ § 4-9-614(a)(3), when completed in accordance with the
 20 instructions in subsection (b) and § 4-9-614(b), each provides sufficient
 21 information:

22 NOTIFICATION OF DISPOSITION OF COLLATERAL

23 To: [Name of debtor, obligor, or other person to which
 24 the notification is sent]

25 From: [Name, address, and telephone number of secured
 26 party]

27 {1} Name of ~~any Debtor(s)~~ debtor that is not an addressee: ~~{Include~~
 28 ~~only if debtor(s) are not an addressee}~~ (Name of each debtor)

29 {2} We will sell (describe collateral)(to the highest qualified
 30 bidder) at public sale. A sale could include a lease or license. The sale
 31 will be held as follows:

32 ~~{For a public disposition:}~~

33 ~~We will sell {or lease or license, as applicable} the {describe collateral}~~
 34 ~~{to the highest qualified bidder} in public as follows:~~

35 ~~Day and (Date):~~

36 ~~(Time):~~

1 (Place)+
 2 ~~{For a private disposition:}~~
 3 {3} We will sell ~~for lease or license, as applicable~~ the [describe
 4 collateral-] privately at private sale sometime after ~~day and~~ (date). A
 5 sale could include a lease or license.

6 {4} You are entitled to an accounting of the unpaid indebtedness
 7 secured by the property that we intend to sell ~~for lease or license, as~~
 8 ~~applicable~~ {for a charge of \$ } or, as applicable, lease or license.

9 {5} If you request an accounting you must pay a charge of \$ (amount).

10 {6} You may request an accounting by calling us at ~~telephone number~~
 11 (telephone number).

12 [End of Form]

13 (b) The following instructions apply to the form of notification in
 14 subsection (a)(5):

15 (1) The instructions in this subsection refer to the numbers in
 16 braces before items in the form of notification in subsection (a)(5). Do not
 17 include the numbers or braces in the notification. The numbers and braces are
 18 used only for the purpose of these instructions.

19 (2) Include and complete item {1} only if there is a debtor that
 20 is not an addressee of the notification and list the name or names.

21 (3) Include and complete either item {2}, if the notification
 22 relates to a public disposition of the collateral, or item {3}, if the
 23 notification relates to a private disposition of the collateral. If item {2}
 24 is included, include the words "to the highest qualified bidder" only if
 25 applicable.

26 (4) Include and complete items {4} and {6}.

27 (5) Include and complete item {5} only if the sender will charge
 28 the recipient for an accounting.

29
 30 SECTION 92. Arkansas Code § 4-9-614 is amended to read as follows:

31 4-9-614. Contents and form of notification before disposition of
 32 collateral: Consumer-goods transaction.

33 (a) In a consumer-goods transaction, the following rules apply:

34 (1) A notification of disposition must provide the following
 35 information:

36 (A) the information specified in ~~§ 4-9-613(1)~~ § 4-9-

1 613(a)(1);

2 (B) a description of any liability for a deficiency of the
3 person to which the notification is sent;

4 (C) a telephone number from which the amount that must be
5 paid to the secured party to redeem the collateral under § 4-9-623 is
6 available; and

7 (D) a telephone number or mailing address from which
8 additional information concerning the disposition and the obligation secured
9 is available.

10 (2) A particular phrasing of the notification is not required.

11 (3) The following form of notification, when completed in
12 accordance with the instructions in subsection (b), provides sufficient
13 information:

14 ~~{(Name and address of secured party)}~~

15 ~~{(Date)}~~

16 NOTICE OF OUR PLAN TO SELL PROPERTY

17 ~~{(Name and address of any obligor who is also a debtor)}~~

18 Subject: ~~{Identification of Transaction}~~ (Identity)

19 We have your ~~{(describe collateral)}~~, because you broke promises in our
20 agreement.

21 ~~{For a public disposition:}~~

22 {1} We will sell ~~{(describe collateral)}~~ at public sale. A sale could
23 include a lease or license. The sale will be held as follows:

24 ~~{(Date)}~~

25 ~~{(Time)}~~

26 ~~{(Place)}~~

27 You may attend the sale and bring bidders if you want.

28 ~~{For a private disposition:}~~

29 {2} We will sell ~~{(describe collateral)}~~ at private sale sometime
30 after ~~{(date)}~~. A sale could include a lease or license.

31 {3} The money that we get from the sale, ~~{(after paying our costs)}~~,
32 will reduce the amount you owe. If we get less money than you owe, you ~~{(will~~
33 ~~or will not, as applicable)}~~ still owe us the difference. If we get more
34 money than you owe, you will get the extra money, unless we must pay it to
35 someone else.

36 {4} You can get the property back at any time before we sell it by

1 paying us the full amount you owe, ~~{not just the past due payments},~~
 2 including our expenses. To learn the exact amount you must pay, call us at
 3 ~~{(telephone number)}.~~

4 {5} If you want us to explain to you in (writing)(writing or in
 5 (description of electronic record))(description of electronic record) how we
 6 have figured the amount that you owe us, you may {6} call us at {(telephone
 7 number)}~~{(or)(write us at {(secured party's address})} (or contact us by~~
 8 (description of electronic communication method)) {7} and request (a written
 9 explanation)(a written explanation or an explanation in (description of
 10 electronic record))(an explanation in (description of electronic record)).

11 {8} {We will charge you \$ (amount) for the explanation if we sent you
 12 another written explanation of the amount you owe us within the last six
 13 months.}

14 {9} If you need more information about the sale (call us at
 15 {(telephone number)}) ~~{(or)(write us at {(secured party's address})}~~(or
 16 contact us by (description of electronic communication method)).

17 {10} We are sending this notice to the following other people who have
 18 an interest in {(describe collateral)} or who owe money under your agreement:
 19 {(Names of all other debtors and obligors, if any)}

20 [End of Form]

21 ~~{4}—A notification in the form of paragraph (3) is sufficient,~~
 22 ~~even if additional information appears at the end of the form.~~

23 ~~{5}—A notification in the form of paragraph (3) is sufficient,~~
 24 ~~even if it includes errors in information not required by paragraph (1),~~
 25 ~~unless the error is misleading with respect to rights arising under this~~
 26 ~~chapter.~~

27 ~~{6}—If a notification under this section is not in the form of~~
 28 ~~paragraph (3), law other than this chapter determines the effect of including~~
 29 ~~information not required by paragraph (1).~~

30 (b) The following instructions apply to the form of notification in
 31 subsection (a)(3):

32 (1) The instructions in this subsection refer to the numbers in
 33 braces before items in the form of notification in subsection (a)(3). Do not
 34 include the numbers or braces in the notification. The numbers and braces are
 35 used only for the purpose of these instructions.

36 (2) Include and complete either item {1}, if the notification

1 relates to a public disposition of the collateral, or item {2}, if the
2 notification relates to a private disposition of the collateral.

3 (3) Include and complete items {3}, {4}, {5}, {6}, and {7}.

4 (4) In item {5}, include and complete any one of the three
5 alternative methods for the explanation—writing, writing or electronic
6 record, or electronic record.

7 (5) In item {6}, include the telephone number. In addition, the
8 sender may include and complete either or both of the two additional
9 alternative methods of communication—writing or electronic communication—for
10 the recipient of the notification to communicate with the sender. Neither of
11 the two additional methods of communication is required to be included.

12 (6) In item {7}, include and complete the method or methods for
13 the explanation—writing, writing or electronic record, or electronic record—
14 included in item {5}.

15 (7) Include and complete item {8} only if a written explanation
16 is included in item {5} as a method for communicating the explanation and the
17 sender will charge the recipient for another written explanation.

18 (8) In item {9}, include either the telephone number or the
19 address or both the telephone number and the address. In addition, the sender
20 may include and complete the additional method of communication—electronic
21 communication—for the recipient of the notification to communicate with the
22 sender. The additional method of electronic communication is not required to
23 be included.

24 (9) If item {10} does not apply, insert “None” after
25 “agreement:”.

26
27 SECTION 93. Arkansas Code § 4-9-615(a), concerning an application of
28 proceeds of disposition under the Uniform Commercial Code, is amended to read
29 as follows:

30 (a) A secured party shall apply or pay over for application the cash
31 proceeds of disposition under § 4-9-610 in the following order to:

32 (1) the reasonable expenses of retaking, holding, preparing for
33 disposition, processing, and disposing, and, to the extent provided for by
34 agreement and not prohibited by law, reasonable attorney’s fees and legal
35 expenses incurred by the secured party;

36 (2) the satisfaction of obligations secured by the security

1 interest or agricultural lien under which the disposition is made;

2 (3) the satisfaction of obligations secured by any subordinate
3 security interest in or other subordinate lien on the collateral if:

4 (A) the secured party receives from the holder of the
5 subordinate security interest or other lien ~~an authenticated~~ a signed demand
6 for proceeds before distribution of the proceeds is completed; and

7 (B) in a case in which a consignor has an interest in the
8 collateral, the subordinate security interest or other lien is senior to the
9 interest of the consignor; and

10 (4) a secured party that is a consignor of the collateral if the
11 secured party receives from the consignor ~~an authenticated~~ a signed demand
12 for proceeds before distribution of the proceeds is completed.

13
14 SECTION 94. Arkansas Code § 4-9-616(a)-(c), concerning the explanation
15 of calculation of surplus or deficiency, are amended to read as follows:

16 (a) In this section:

17 (1) "Explanation" means a ~~writing~~ record that:

18 (A) states the amount of the surplus or deficiency;

19 (B) provides an explanation in accordance with subsection
20 (c) of how the secured party calculated the surplus or deficiency;

21 (C) states, if applicable, that future debits, credits,
22 charges, including additional credit service charges or interest, rebates,
23 and expenses may affect the amount of the surplus or deficiency; and

24 (D) provides a telephone number or mailing address from
25 which additional information concerning the transaction is available.

26 (2) "Request" means a record:

27 (A) ~~authenticated~~ signed by a debtor or consumer obligor;

28 (B) requesting that the recipient provide an explanation;

29 and

30 (C) sent after disposition of the collateral under § 4-9-
31 610.

32 (b) In a consumer-goods transaction in which the debtor is entitled to
33 a surplus or a consumer obligor is liable for a deficiency under § 4-9-615,
34 the secured party shall:

35 (1) send an explanation to the debtor or consumer obligor, as
36 applicable, after the disposition and:

1 (A) before or when the secured party accounts to the
2 debtor and pays any surplus or first makes ~~written~~ demand in a record on the
3 consumer obligor after the disposition for payment of the deficiency; and

4 (B) within fourteen (14) days after receipt of a request;
5 or

6 (2) in the case of a consumer obligor who is liable for a
7 deficiency, within fourteen (14) days after receipt of a request, send to the
8 consumer obligor a record waiving the secured party's right to a deficiency.

9 (c) To comply with subsection (a)(1)(B), ~~a writing~~ an explanation must
10 provide the following information in the following order:

11 (1) the aggregate amount of obligations secured by the security
12 interest under which the disposition was made, and, if the amount reflects a
13 rebate of unearned interest or credit service charge, an indication of that
14 fact, calculated as of a specified date:

15 (A) if the secured party takes or receives possession of
16 the collateral after default, not more than thirty-five (35) days before the
17 secured party takes or receives possession; or

18 (B) if the secured party takes or receives possession of
19 the collateral before default or does not take possession of the collateral,
20 not more than thirty-five (35) days before the disposition;

21 (2) the amount of proceeds of the disposition;

22 (3) the aggregate amount of the obligations after deducting the
23 amount of proceeds;

24 (4) the amount, in the aggregate or by type, and types of
25 expenses, including expenses of retaking, holding, preparing for disposition,
26 processing, and disposing of the collateral, and attorney's fees secured by
27 the collateral which are known to the secured party and relate to the current
28 disposition;

29 (5) the amount, in the aggregate or by type, and types of
30 credits, including rebates of interest or credit service charges, to which
31 the obligor is known to be entitled and which are not reflected in the amount
32 in paragraph (1); and

33 (6) the amount of the surplus or deficiency.
34

35 SECTION 95. Arkansas Code § 4-9-619(a), concerning the transfer of
36 record or legal title under the Uniform Commercial Code, is amended to read

1 as follows:

2 (a) In this section, "transfer statement" means a record ~~authenticated~~
3 signed by a secured party stating:

4 (1) that the debtor has defaulted in connection with an
5 obligation secured by specified collateral;

6 (2) that the secured party has exercised its post-default
7 remedies with respect to the collateral;

8 (3) that, by reason of the exercise, a transferee has acquired
9 the rights of the debtor in the collateral; and

10 (4) the name and mailing address of the secured party, debtor,
11 and transferee.

12

13 SECTION 96. Arkansas Code § 4-9-620 is amended to read as follows:

14 4-9-620. Acceptance of collateral in full or partial satisfaction of
15 obligation – Compulsory disposition of collateral.

16 (a) Except as otherwise provided in subsection (g), a secured party
17 may accept collateral in full or partial satisfaction of the obligation it
18 secures only if:

19 (1) the debtor consents to the acceptance under subsection (c);

20 (2) the secured party does not receive, within the time set
21 forth in subsection (d), a notification of objection to the proposal
22 ~~authenticated~~ signed by:

23 (A) a person to which the secured party was required to
24 send a proposal under § 4-9-621; or

25 (B) any other person, other than the debtor, holding an
26 interest in the collateral subordinate to the security interest that is the
27 subject of the proposal;

28 (3) if the collateral is consumer goods, the collateral is not
29 in the possession of the debtor when the debtor consents to the acceptance;
30 and

31 (4) subsection (e) does not require the secured party to dispose
32 of the collateral or the debtor waives the requirement pursuant to § 4-9-624.

33 (b) A purported or apparent acceptance of collateral under this
34 section is ineffective unless:

35 (1) the secured party consents to the acceptance in ~~an~~
36 ~~authenticated~~ a signed record or sends a proposal to the debtor; and

1 (2) the conditions of subsection (a) are met.

2 (c) For purposes of this section:

3 (1) a debtor consents to an acceptance of collateral in partial
4 satisfaction of the obligation it secures only if the debtor agrees to the
5 terms of the acceptance in a record ~~authenticated~~ signed after default; and

6 (2) a debtor consents to an acceptance of collateral in full
7 satisfaction of the obligation it secures only if the debtor agrees to the
8 terms of the acceptance in a record ~~authenticated~~ signed after default or the
9 secured party:

10 (A) sends to the debtor after default a proposal that is
11 unconditional or subject only to a condition that collateral not in the
12 possession of the secured party be preserved or maintained;

13 (B) in the proposal, proposes to accept collateral in full
14 satisfaction of the obligation it secures; and

15 (C) does not receive a notification of objection
16 ~~authenticated~~ signed by the debtor within twenty (20) days after the proposal
17 is sent.

18 (d) To be effective under subsection (a)(2), a notification of
19 objection must be received by the secured party:

20 (1) in the case of a person to which the proposal was sent
21 pursuant to § 4-9-621, within twenty (20) days after notification was sent to
22 that person; and

23 (2) in other cases:

24 (A) within twenty (20) days after the last notification
25 was sent pursuant to § 4-9-621; or

26 (B) if a notification was not sent, before the debtor
27 consents to the acceptance under subsection (c).

28 (e) A secured party that has taken possession of collateral shall
29 dispose of the collateral pursuant to § 4-9-610 within the time specified in
30 subsection (f) if:

31 (1) sixty percent (60%) of the cash price has been paid in the
32 case of a purchase-money security interest in consumer goods; or

33 (2) sixty percent (60%) of the principal amount of the
34 obligation secured has been paid in the case of a non-purchase-money security
35 interest in consumer goods.

36 (f) To comply with subsection (e), the secured party shall dispose of

1 the collateral:

2 (1) within ninety (90) days after taking possession; or

3 (2) within any longer period to which the debtor and all
4 secondary obligors have agreed in an agreement to that effect entered into
5 and ~~authenticated~~ signed after default.

6 (g) In a consumer transaction, a secured party may not accept
7 collateral in partial satisfaction of the obligation it secures.

8

9 SECTION 97. Arkansas Code § 4-9-621(a), concerning the notification of
10 proposal to accept collateral under the Uniform Commercial Code, is amended
11 to read as follows:

12 (a) A secured party that desires to accept collateral in full or
13 partial satisfaction of the obligation it secures shall send its proposal to:

14 (1) any person from which the secured party has received, before
15 the debtor consented to the acceptance, ~~an authenticated~~ a signed
16 notification of a claim of an interest in the collateral;

17 (2) any other secured party or lienholder that, ten (10) days
18 before the debtor consented to the acceptance, held a security interest in or
19 other lien on the collateral perfected by the filing of a financing statement
20 that:

21 (A) identified the collateral;

22 (B) was indexed under the debtor's name as of that date;

23 and

24 (C) was filed in the office or offices in which to file a
25 financing statement against the debtor covering the collateral as of that
26 date; and

27 (3) any other secured party that, ten (10) days before the
28 debtor consented to the acceptance, held a security interest in the
29 collateral perfected by compliance with a statute, regulation, or treaty
30 described in § 4-9-311(a).

31

32 SECTION 98. Arkansas Code § 4-9-624 is amended to read as follows:
33 4-9-624. Waiver.

34 (a) A debtor or secondary obligor may waive the right to notification
35 of disposition of collateral under § 4-9-611 only by an agreement to that
36 effect entered into and ~~authenticated~~ signed after default.

1 (b) A debtor may waive the right to require disposition of collateral
 2 under § 4-9-620(e) only by an agreement to that effect entered into and
 3 ~~authenticated~~ signed after default.

4 (c) Except in a consumer-goods transaction, a debtor or secondary
 5 obligor may waive the right to redeem collateral under § 4-9-623 only by an
 6 agreement to that effect entered into and ~~authenticated~~ signed after default.

7
 8 SECTION 99. Arkansas Code § 4-9-628 is amended to read as follows:

9 4-9-628. Nonliability and limitation on liability of secured party –
 10 Liability of secondary obligor.

11 (a) ~~Unless~~ Subject to subsection (f), unless a secured party knows
 12 that a person is a debtor or obligor, knows the identity of the person, and
 13 knows how to communicate with the person:

14 (1) the secured party is not liable to the person, or to a
 15 secured party or lienholder that has filed a financing statement against the
 16 person, for failure to comply with this chapter; and

17 (2) the secured party's failure to comply with this chapter does
 18 not affect the liability of the person for a deficiency.

19 (b) ~~A~~ Subject to subsection (f), a secured party is not liable because
 20 of its status as secured party:

21 (1) to a person that is a debtor or obligor, unless the secured
 22 party knows:

23 (A) that the person is a debtor or obligor;

24 (B) the identity of the person; and

25 (C) how to communicate with the person; or

26 (2) to a secured party or lienholder that has filed a financing
 27 statement against a person, unless the secured party knows:

28 (A) that the person is a debtor; and

29 (B) the identity of the person.

30 (c) A secured party is not liable to any person, and a person's
 31 liability for a deficiency is not affected, because of any act or omission
 32 arising out of the secured party's reasonable belief that a transaction is
 33 not a consumer-goods transaction or a consumer transaction or that goods are
 34 not consumer goods, if the secured party's belief is based on its reasonable
 35 reliance on:

36 (1) a debtor's representation concerning the purpose for which

1 collateral was to be used, acquired, or held; or

2 (2) an obligor's representation concerning the purpose for which
3 a secured obligation was incurred.

4 (d) A secured party is not liable to any person under § 4-9-625(c)(2)
5 for its failure to comply with § 4-9-616.

6 (e) A secured party is not liable under § 4-9-625(c)(2) more than once
7 with respect to any one (1) secured obligation.

8 (f) Subsections (a) and (b) do not apply to limit the liability of a
9 secured party to a person if, at the time the secured party obtains control
10 of collateral that is a controllable account, controllable electronic record,
11 or controllable payment intangible or at the time the security interest
12 attaches to the collateral, whichever is later:

13 (1) the person is a debtor or obligor; and

14 (2) the secured party knows that the information in subsection
15 (b)(1)(A), (B), or (C) relating to the person is not provided by the
16 collateral, a record attached to or logically associated with the collateral,
17 or the system in which the collateral is recorded.

18
19 SECTION 100. Arkansas Code Title 4, Chapter 11, is repealed.

20 CHAPTER 11

21 VIRTUAL CURRENCY

22
23 ~~4-11-101. Short title.~~

24 ~~This chapter may be cited as Uniform Commercial Code Virtual Currency~~
25 ~~of Arkansas.~~

26
27 ~~4-11-102. Definitions.~~

28 ~~In this chapter, "virtual currency":~~

29 ~~(1) means a digital representation of value that:~~

30 ~~(A) is used as a medium of exchange, unit of account, or~~
31 ~~store of value; and~~

32 ~~(B) is not legal tender, whether or not denominated in~~
33 ~~legal tender; and~~

34 ~~(2) does not include:~~

35 ~~(A) a transaction in which a merchant grants, as part of~~
36 ~~an affinity or rewards program, value that cannot be taken from or exchanged~~

1 with the merchant for legal tender, bank credit, or virtual currency; or
 2 (B) a digital representation of value issued by or on
 3 behalf of a publisher and used solely within an online game, game platform,
 4 or family of games sold by the same publisher or offered on the same game
 5 platform.

6
 7 4-11-103. ~~Scope.~~

8 This chapter applies to virtual currency.

9
 10 4-11-104. ~~Rights in virtual currency.~~

11 (a) ~~In this section:~~

12 (1) ~~“Adverse claim” means a claim that a claimant has a property~~
 13 ~~interest in a virtual currency and that it is a violation of the rights of~~
 14 ~~the claimant for another person to hold, transfer, or deal with the virtual~~
 15 ~~currency.~~

16 (2) ~~“Qualifying purchaser” means a purchaser that obtains~~
 17 ~~control of a virtual currency for value and without notice of any adverse~~
 18 ~~claim.~~

19 (b) ~~Subject to subsections (c) through (h), law other than this~~
 20 ~~chapter determines whether a person acquires rights in a virtual currency and~~
 21 ~~the rights that the person acquires.~~

22 (c) ~~A purchaser of a virtual currency acquires all rights in the~~
 23 ~~virtual currency that the transferor had or had power to transfer.~~

24 (d) ~~A purchaser of a limited interest in a virtual currency acquires~~
 25 ~~rights only to the extent of the interest purchased.~~

26 (e) ~~In addition to acquiring the rights of a purchaser, a qualifying~~
 27 ~~purchaser acquires its rights in a virtual currency free of any adverse~~
 28 ~~claim.~~

29 (f) ~~An action based on an adverse claim to a virtual currency, whether~~
 30 ~~framed in conversion, replevin, constructive trust, equitable lien, or other~~
 31 ~~theory, may not be asserted against a qualifying purchaser that acquires its~~
 32 ~~interest in, and obtains control of, the virtual currency for value and~~
 33 ~~without notice of the adverse claim.~~

34 (g) ~~A person has notice of an adverse claim if:~~

35 (1) ~~the person knows of the adverse claim; or~~

36 (2) ~~the person is aware of facts sufficient to indicate that~~

1 ~~there is a significant probability that the adverse claim exists and~~
 2 ~~deliberately avoids information that would establish the existence of the~~
 3 ~~adverse claim.~~

4 ~~(h) Filing of a financing statement under Chapter 9 is not notice of~~
 5 ~~an adverse claim to a virtual currency.~~

6
 7 ~~4-11-105. Control of virtual currency.~~

8 ~~(a) A person has "control" of a virtual currency if the following~~
 9 ~~conditions are met:~~

10 ~~(1) the virtual currency or the system in which it is recorded,~~
 11 ~~if any, gives the person:~~

12 ~~(A) the power to derive substantially all the benefit from~~
 13 ~~the virtual currency;~~

14 ~~(B) subject to subsection (b), the exclusive power to~~
 15 ~~prevent others from deriving substantially all the benefit from the virtual~~
 16 ~~currency; and~~

17 ~~(C) subject to subsection (b), the exclusive power to~~
 18 ~~transfer control of the virtual currency to another person or cause another~~
 19 ~~person to obtain control of a virtual currency that derives from the virtual~~
 20 ~~currency; and~~

21 ~~(2) the virtual currency, a record attached to or logically~~
 22 ~~associated with the virtual currency, or the system in which the virtual~~
 23 ~~currency is recorded, if any, enables the person to readily identify itself~~
 24 ~~as having the powers specified in subparagraph (a)(1).~~

25 ~~(b) A power specified in subparagraph (a)(1)(B) or (a)(1)(C) can be~~
 26 ~~exclusive, even if:~~

27 ~~(1) the virtual currency or the system in which it is recorded,~~
 28 ~~if any, limits the use to which the virtual currency may be put or has~~
 29 ~~protocols that are programmed to result in a transfer of control; and~~

30 ~~(2) the person has agreed to share the power with another~~
 31 ~~person.~~

32 ~~(c) For the purposes of subparagraph (a)(2), a person may be~~
 33 ~~identified in any way, including by name, identifying number, cryptographic~~
 34 ~~key, office, or account number.~~

35
 36 ~~4-11-106. Savings clause.~~

1 account”, “controllable payment intangible”, “chattel paper”, “deposit
2 account”, “electronic money”, and “investment property” apply to this
3 chapter.

4 (c) Chapter 1 contains general definitions and principles of
5 construction and interpretation applicable throughout this chapter.

6
7 4-12-103. Relation to Chapter 9 and consumer laws.

8 (a) If there is conflict between this chapter and Chapter 9, Chapter 9
9 governs.

10 (b) A transaction subject to this chapter is subject to any applicable
11 rule of law that establishes a different rule for consumers and to (i) any
12 other statute or regulation that regulates the rates, charges, agreements,
13 and practices for loans, credit sales, or other extensions of credit and (ii)
14 any consumer-protection statute or regulation.

15
16 4-12-104. Rights in controllable account, controllable electronic
17 record, and controllable payment intangible.

18 (a) This section applies to the acquisition and purchase of rights in
19 a controllable account or controllable payment intangible, including the
20 rights and benefits under subsections (c), (d), (e), (g), and (h) of a
21 purchaser and qualifying purchaser, in the same manner this section applies
22 to a controllable electronic record.

23 (b) To determine whether a purchaser of a controllable account or a
24 controllable payment intangible is a qualifying purchaser, the purchaser
25 obtains control of the account or payment intangible if it obtains control of
26 the controllable electronic record that evidences the account or payment
27 intangible.

28 (c) Except as provided in this section, law other than this chapter
29 determines whether a person acquires a right in a controllable electronic
30 record and the right the person acquires.

31 (d) A purchaser of a controllable electronic record acquires all
32 rights in the controllable electronic record that the transferor had or had
33 power to transfer, except that a purchaser of a limited interest in a
34 controllable electronic record acquires rights only to the extent of the
35 interest purchased.

36 (e) A qualifying purchaser acquires its rights in the controllable

1 electronic record free of a claim of a property right in the controllable
2 electronic record.

3 (f) Except as provided in subsections (a) and (e) for a controllable
4 account and a controllable payment intangible or law other than this chapter,
5 a qualifying purchaser takes a right to payment, right to performance, or
6 other interest in property evidenced by the controllable electronic record
7 subject to a claim of a property right in the right to payment, right to
8 performance, or other interest in property.

9 (g) An action may not be asserted against a qualifying purchaser based
10 on both a purchase by the qualifying purchaser of a controllable electronic
11 record and a claim of a property right in another controllable electronic
12 record, whether the action is framed in conversion, replevin, constructive
13 trust, equitable lien, or other theory.

14 (h) Filing of a financing statement under Chapter 9 is not notice of a
15 claim of a property right in a controllable electronic record.

16
17 4-12-105. Control of controllable electronic record.

18 (a) A person has control of a controllable electronic record if the
19 electronic record, a record attached to or logically associated with the
20 electronic record, or a system in which the electronic record is recorded:

21 (1) gives the person:

22 (A) power to avail itself of substantially all the benefit
23 from the electronic record; and

24 (B) exclusive power, subject to subsection (b), to:

25 (i) prevent others from availing themselves of
26 substantially all the benefit from the electronic record; and

27 (ii) transfer control of the electronic record to
28 another person or cause another person to obtain control of another
29 controllable electronic record as a result of the transfer of the electronic
30 record; and

31 (2) enables the person readily to identify itself in any way,
32 including by name, identifying number, cryptographic key, office, or account
33 number, as having the powers specified in paragraph (1).

34 (b) Subject to subsection (c), a power is exclusive under subsection
35 (a)(1)(B)(i) and (ii) even if:

36 (1) the controllable electronic record, a record attached to or

1 logically associated with the electronic record, or a system in which the
2 electronic record is recorded limits the use of the electronic record or has
3 a protocol programmed to cause a change, including a transfer or loss of
4 control or a modification of benefits afforded by the electronic record; or

5 (2) the power is shared with another person.

6 (c) A power of a person is not shared with another person under
7 subsection (b)(2) and the person's power is not exclusive if:

8 (1) the person can exercise the power only if the power also is
9 exercised by the other person; and

10 (2) the other person:

11 (A) can exercise the power without exercise of the power
12 by the person; or

13 (B) is the transferor to the person of an interest in the
14 controllable electronic record or a controllable account or controllable
15 payment intangible evidenced by the controllable electronic record.

16 (d) If a person has the powers specified in subsection (a)(1)(B)(i)
17 and (ii), the powers are presumed to be exclusive.

18 (e) A person has control of a controllable electronic record if
19 another person, other than the transferor to the person of an interest in the
20 controllable electronic record or a controllable account or controllable
21 payment intangible evidenced by the controllable electronic record:

22 (1) has control of the electronic record and acknowledges that
23 it has control on behalf of the person; or

24 (2) obtains control of the electronic record after having
25 acknowledged that it will obtain control of the electronic record on behalf
26 of the person.

27 (f) A person that has control under this section is not required to
28 acknowledge that it has control on behalf of another person.

29 (g) If a person acknowledges that it has or will obtain control on
30 behalf of another person, unless the person otherwise agrees or law other
31 than this chapter or Chapter 9 otherwise provides, the person does not owe
32 any duty to the other person and is not required to confirm the
33 acknowledgment to any other person.

34
35 4-12-106. Discharge of account debtor on controllable account or
36 controllable payment intangible.

1 (a) An account debtor on a controllable account or controllable
2 payment intangible may discharge its obligation by paying:

3 (1) the person having control of the controllable electronic
4 record that evidences the controllable account or controllable payment
5 intangible; or

6 (2) except as provided in subsection (b), a person that formerly
7 had control of the controllable electronic record.

8 (b) Subject to subsection (d), the account debtor may not discharge
9 its obligation by paying a person that formerly had control of the
10 controllable electronic record if the account debtor receives a notification
11 that:

12 (1) is signed by a person that formerly had control or the
13 person to which control was transferred;

14 (2) reasonably identifies the controllable account or
15 controllable payment intangible;

16 (3) notifies the account debtor that control of the controllable
17 electronic record that evidences the controllable account or controllable
18 payment intangible was transferred;

19 (4) identifies the transferee, in any reasonable way, including
20 by name, identifying number, cryptographic key, office, or account number;
21 and

22 (5) provides a commercially reasonable method by which the
23 account debtor is to pay the transferee.

24 (c) After receipt of a notification that complies with subsection (b),
25 the account debtor may discharge its obligation by paying in accordance with
26 the notification and may not discharge the obligation by paying a person that
27 formerly had control.

28 (d) Subject to subsection (h), notification is ineffective under
29 subsection (b):

30 (1) unless, before the notification is sent, the account debtor
31 and the person that, at that time, had control of the controllable electronic
32 record that evidences the controllable account or controllable payment
33 intangible agree in a signed record to a commercially reasonable method by
34 which a person may furnish reasonable proof that control has been
35 transferred;

36 (2) to the extent an agreement between the account debtor and

1 seller of a payment intangible limits the account debtor's duty to pay a
2 person other than the seller and the limitation is effective under law other
3 than this chapter; or

4 (3) at the option of the account debtor, if the notification
5 notifies the account debtor to:

6 (A) divide a payment;

7 (B) make less than the full amount of an installment or
8 other periodic payment; or

9 (C) pay any part of a payment by more than one method or
10 to more than one person.

11 (e) Subject to subsection (h), if requested by the account debtor, the
12 person giving the notification under subsection (b) seasonably shall furnish
13 reasonable proof, using the method in the agreement referred to in subsection
14 (d)(1), that control of the controllable electronic record has been
15 transferred. Unless the person complies with the request, the account debtor
16 may discharge its obligation by paying a person that formerly had control,
17 even if the account debtor has received a notification under subsection (b).

18 (f) A person furnishes reasonable proof under subsection (e) that
19 control has been transferred if the person demonstrates, using the method in
20 the agreement referred to in subsection (d)(1), that the transferee has the
21 power to:

22 (1) avail itself of substantially all the benefit from the
23 controllable electronic record;

24 (2) prevent others from availing themselves of substantially all
25 the benefit from the controllable electronic record; and

26 (3) transfer the powers specified in paragraphs (1) and (2) to
27 another person.

28 (g) Subject to subsection (h), an account debtor may not waive or vary
29 its rights under subsections (d)(1) and (e) or its option under subsection
30 (d)(3).

31 (h) This section is subject to law other than this chapter which
32 establishes a different rule for an account debtor who is an individual and
33 who incurred the obligation primarily for personal, family, or household
34 purposes.

35
36 4-12-107. Governing Law.

1 (a) Except as provided in subsection (b), the local law of a
2 controllable electronic record's jurisdiction governs a matter covered by
3 this chapter.

4 (b) For a controllable electronic record that evidences a controllable
5 account or controllable payment intangible, the local law of the controllable
6 electronic record's jurisdiction governs a matter covered by § 4-12-106
7 unless an effective agreement determines that the local law of another
8 jurisdiction governs.

9 (c) The following rules determine a controllable electronic record's
10 jurisdiction under this section:

11 (1) If the controllable electronic record, or a record attached
12 to or logically associated with the controllable electronic record and
13 readily available for review, expressly provides that a particular
14 jurisdiction is the controllable electronic record's jurisdiction for
15 purposes of this chapter or the Uniform Commercial Code, that jurisdiction is
16 the controllable electronic record's jurisdiction.

17 (2) If paragraph (1) does not apply and the rules of the system
18 in which the controllable electronic record is recorded are readily available
19 for review and expressly provide that a particular jurisdiction is the
20 controllable electronic record's jurisdiction for purposes of this chapter or
21 the Uniform Commercial Code, that jurisdiction is the controllable electronic
22 record's jurisdiction.

23 (3) If paragraphs (1) and (2) do not apply and the controllable
24 electronic record, or a record attached to or logically associated with the
25 controllable electronic record and readily available for review, expressly
26 provides that the controllable electronic record is governed by the law of a
27 particular jurisdiction, that jurisdiction is the controllable electronic
28 record's jurisdiction.

29 (4) If paragraphs (1), (2), and (3) do not apply and the rules
30 of the system in which the controllable electronic record is recorded are
31 readily available for review and expressly provide that the controllable
32 electronic record or the system is governed by the law of a particular
33 jurisdiction, that jurisdiction is the controllable electronic record's
34 jurisdiction.

35 (5) If paragraphs (1) through (4) do not apply, the controllable
36 electronic record's jurisdiction is the District of Columbia.

1 "Financing statement". Section 4-9-102.

2 (c) Chapter 1 contains general definitions and principles of
3 construction and interpretation applicable throughout this chapter.

4
5 PART 2 – GENERAL TRANSITIONAL PROVISION

6
7 4-12A-201. Saving Clause.

8 Except as provided in Part 3, a transaction validly entered into before
9 July 1, 2024 and the rights, duties, and interests flowing from the
10 transaction remain valid thereafter and may be terminated, completed,
11 consummated, or enforced as required or permitted by law other than the
12 Uniform Commercial Code or, if applicable, the Uniform Commercial Code, as
13 though this act had not taken effect.

14
15 PART 3 – TRANSITIONAL PROVISIONS FOR CHAPTERS 9 AND 12

16
17 4-12A-301. Saving Clause.

18 (a) Except as provided in this part, Chapter 9 as amended by this act
19 and Chapter 12 apply to a transaction, lien, or other interest in property,
20 even if the transaction, lien, or interest was entered into, created, or
21 acquired before July 1, 2024.

22 (b) Except as provided in subsection (c) and § 4-12A-302 through § 4-
23 12A-306:

24 (1) a transaction, lien, or interest in property that was
25 validly entered into, created, or transferred before July 1, 2024 and was not
26 governed by the Uniform Commercial Code, but would be subject to Chapter 9 as
27 amended by this act or Chapter 12 if it had been entered into, created, or
28 transferred on or after July 1, 2024, including the rights, duties, and
29 interests flowing from the transaction, lien, or interest, remains valid on
30 and after July 1, 2024; and

31 (2) the transaction, lien, or interest may be terminated,
32 completed, consummated, and enforced as required or permitted by this act or
33 by the law that would apply if this act had not taken effect.

34 (c) Notwithstanding any other provision of this chapter:

35 (1) virtual currency under repealed Chapter 11 and Chapter 9 as
36 in existence before amendment by this act constitutes a controllable

1 electronic record under Chapter 12 and Chapter 9 as amended by this act; and
2 (2) control of virtual currency accomplished under repealed
3 Chapter 11 constitutes control of a controllable electronic record under
4 Chapter 12 and Chapter 9 as amended by this act.

5
6 4-12A-302. Security interest perfected before effective date.

7 (a) A security interest that is enforceable and perfected immediately
8 before July 1, 2024 is a perfected security interest under this act if, on
9 July 1, 2024, the requirements for enforceability and perfection under this
10 act are satisfied without further action.

11 (b) If a security interest is enforceable and perfected immediately
12 before July 1, 2024, but the requirements for enforceability or perfection
13 under this act are not satisfied on July 1, 2024, the security interest:

14 (1) is a perfected security interest until the earlier of the
15 time perfection would have ceased under the law in effect immediately before
16 July 1, 2024 or the adjustment date;

17 (2) remains enforceable thereafter only if the security interest
18 satisfies the requirements for enforceability under § 4-9-203, as amended by
19 this act, before the adjustment date; and

20 (3) remains perfected thereafter only if the requirements for
21 perfection under this act are satisfied before the time specified in
22 paragraph (1).

23
24 4-12A-303. Security interest unperfected before effective date.

25 A security interest that is enforceable immediately before July 1, 2024
26 but is unperfected at that time:

27 (1) remains an enforceable security interest until the
28 adjustment date;

29 (2) remains enforceable thereafter if the security interest
30 becomes enforceable under § 4-9-203, as amended by this act, on July 1, 2024
31 or before the adjustment date; and

32 (3) becomes perfected:

33 (A) without further action, on July 1, 2024 if the
34 requirements for perfection under this act are satisfied before or at that
35 time; or

36 (B) when the requirements for perfection are satisfied if

1 the requirements are satisfied after that time.

2
3 4-12A-304. Effectiveness of actions taken before effective date.

4 (a) If action, other than the filing of a financing statement, is
5 taken before July 1, 2024 and the action would have resulted in perfection of
6 the security interest had the security interest become enforceable before
7 July 1, 2024, the action is effective to perfect a security interest that
8 attaches under this act before the adjustment date. An attached security
9 interest becomes unperfected on the adjustment date unless the security
10 interest becomes a perfected security interest under this act before the
11 adjustment date.

12 (b) The filing of a financing statement before July 1, 2024 is
13 effective to perfect a security interest on July 1, 2024 to the extent the
14 filing would satisfy the requirements for perfection under this act.

15 (c) The taking of an action before July 1, 2024 is sufficient for the
16 enforceability of a security interest on July 1, 2024 if the action would
17 satisfy the requirements for enforceability under this act.

18
19 4-12A-305. Priority of claims when priority rules of Chapter 9 do
20 not apply.

21 (a) Subject to subsections (b) and (c), this act determines the
22 priority of conflicting claims to collateral.

23 (b) Subject to subsection (c), if the priorities of claims to
24 collateral were established before July 1, 2024, Chapter 9 as in effect
25 before July 1, 2024, determines priority.

26 (c) On the adjustment date, to the extent the priorities determined by
27 Chapter 9 as amended by this act modify the priorities established before
28 July 1, 2024, the priorities of claims to Chapter 12 property and electronic
29 money established before July 1, 2024, the effective date of this act cease
30 to apply.

31
32 4-12A-306. Priority of claims when priority rules of Chapter 9 do
33 not apply.

34 (a) Subject to subsections (b) and (c), Chapter 12 determines the
35 priority of conflicting claims to Chapter 12 property when the priority rules
36 of Chapter 9 as amended by this act do not apply.

1 (b) Subject to subsection (c), when the priority rules of Chapter 9 as
2 amended by this act do not apply and the priorities of claims to Chapter 12
3 property were established before July 1, 2024, the effective date of this
4 act, law other than Chapter 12 determines priority.

5 (c) When the priority rules of Chapter 9 as amended by this act do not
6 apply, to the extent the priorities determined by this act modify the
7 priorities established before July 1, 2024, the priorities of claims to
8 Chapter 12 property established before July 1, 2024, cease to apply on the
9 adjustment date.

10
11 SECTION 102. Effective date.

12 This act takes effect on July 1, 2024.
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