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SENATE BILL NO. 370

INTRODUCED BY S. FITZPATRICK, E. BUTTREY, D. SALOMON, E. BOLDMAN, S. MORIGEAU, J. SMALL,
J. KASSMIER, B. MERCER, K. SULLIVAN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE UNIFORM COMMERCIAL CODE;
UPDATING TERMINOLOGY FOR THE DIGITAL AGE; PROVIDING RULES FOR TRANSACTIONS
INVOLVING CERTAIN DIGITAL ASSETS; AND AMENDING SECTIONS 30-1-101, 30-1-107, 30-1-201, 30-1-
212, 30-1-301, 30-2-102, 30-2-106, 30-2-201, 30-2-202, 30-2-203, 30-2-205, 30-2-209, 30-2A-102, 30-2A-103,
30-2A-107, 30-2A-201, 30-2A-202, 30-2A-203, 30-2A-205, 30-2A-208, 30-3-104, 30-3-125, 30-3-401, 30-3-605,
30-4A-103, 30-4A-201, 30-4A-202, 30-4A-203, 30-4A-207, 30-4A-208, 30-4A-210, 30-4A-211, 30-4A-305, 30-5-
124, 30-5-136, 30-7-102, 30-7-107, 30-8-112, 30-8-113, 30-8-116, 30-8-120, 30-8-333, 30-9A-102, 30-9A-104,
30-9A-105, 30-9A-203, 30-9A-204, 30-9A-207, 30-9A-208, 30-9A-209, 30-9A-210, 30-9A-301, 30-9A-304, 30-
9A-305, 30-9A-310, 30-9A-312, 30-9A-313, 30-9A-314, 30-9A-316, 30-9A-317, 30-9A-323, 30-9A-324, 30-9A-
330, 30-9A-331, 30-9A-332, 30-9A-334, 30-9A-341, 30-9A-404, 30-9A-406, 30-9A-408, 30-9A-509, 30-9A-513,
30-9A-601, 30-9A-605, 30-9A-608, 30-9A-611, 30-9A-613, 30-9A-614, 30-9A-615, 30-9A-616, 30-9A-619, 30-
9A-620, 30-9A-621, 30-9A-624, 30-9A-628, 30-18-115, AND 45-6-315, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 30-1-101, MCA, is amended to read:

"30-1-101. Short titles -- scope of chapter. (1) Chapters 1 through 9A and ~~[sections 93 through 108]~~
~~[sections 92 through 107]~~ of this title may be cited as Uniform Commercial Code.

(2) As used in chapters 1 through 9A and ~~[sections 93 through 108]~~ ~~[sections 92 through 107]~~ of
this title "code" means "Uniform Commercial Code" unless the context indicates otherwise.

(3) This chapter may be cited as the Uniform Commercial Code--General Provisions.

(4) This chapter applies to a transaction to the extent that it is governed by chapters 2 through 5,
7, 8, and 9A and ~~[sections 93 through 108]~~ ~~[sections 92 through 107]~~ of this title."

1 **Section 2.** Section 30-1-107, MCA, is amended to read:

2 **"30-1-107. Waiver or renunciation of claim or right after breach.** A claim or right arising out of an
3 alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved
4 party in an ~~authenticated~~ a signed record."

5

6 **Section 3.** Section 30-1-201, MCA, is amended to read:

7 **"30-1-201. General definitions.** (1) Unless the context requires otherwise, words or phrases defined
8 in this section, or in the additional definitions contained in other chapters of the code that apply to particular
9 chapters or parts of chapters, have the meanings stated.

10 (2) Subject to additional definitions contained in other chapters of this code that apply to specific
11 chapters or parts of chapters:

12 (a) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in
13 equity, and any other proceeding in which rights are determined.

14 (b) "Aggrieved party" means a party entitled to pursue a remedy.

15 (c) "Agreement" means the bargain of the parties in fact, as found in their language or inferred
16 from other circumstances, including course of performance, course of dealing, or usage of trade as provided in
17 30-1-205.

18 ~~(d) "Authenticate" means to:~~

19 ~~(i) sign; or~~

20 ~~(ii) execute or adopt a symbol, or encrypt a record in whole or in part, with present intent to:~~

21 ~~(A) identify the authenticating party; and~~

22 ~~(B) adopt, accept, or establish the authenticity of a record or term.~~

23 ~~(e)~~(d) "Bank" means any person engaged in the business of banking and includes a savings bank,
24 savings and loan association, credit union, and trust company.

25 ~~(f)~~(e) "Bearer" means a person in control of a negotiable electronic document of title or a person in
26 possession of a negotiable instrument, negotiable tangible document of title, or certificated security payable to
27 bearer or endorsed in blank.

28 ~~(g)~~(f) (i) "Bill of lading" means a document of title evidencing the receipt of goods for shipment issued

1 by a person engaged in the business of directly or indirectly transporting or forwarding goods.

2 (ii) The term does not include a warehouse receipt.

3 ~~(h)~~(g) "Branch" includes a separately incorporated foreign branch of a bank.

4 ~~(h)~~(h) "Burden of establishing" a fact means the burden of persuading the trier of fact that the
5 existence of the fact is more probable than its nonexistence.

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

17 ~~(k)~~(j) "Conspicuous", with reference to a term, means so written, displayed, or presented that, based
18 on the totality of the circumstances, a reasonable person against which it is to operate ought to have noticed it.
19 Whether a term is "conspicuous" or not is for decision by the court. ~~Conspicuous terms include the following:~~

20 ~~(i) a heading in capitals equal to or greater in size than the surrounding text, or in contrasting type,~~
21 ~~font, or color to the surrounding text of the same or lesser size; and~~

22 ~~(ii) language in the body of a record or display in larger type than the surrounding text, or in contrasting~~
23 ~~type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by~~
24 ~~symbols or other marks that call attention to the language.~~

25 ~~(h)~~(k) "Consumer" means an individual who enters into a transaction primarily for personal, family, or
26 household purposes.

27 ~~(m)~~(l) "Contract" means the total legal obligation that results from the parties' agreement as affected
28 by this code and as supplemented by any other applicable rules of law.

Amendment - 1st Reading/2nd House-blue – (H) Business and Labor

- 2023

68th Legislature 2023

Drafter: Todd Everts, 406-444-4023

SB0370.001.001

1 ~~(n)~~(m) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative
2 of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and
3 an executor or administrator of an insolvent debtor's or assignor's estate.

4 ~~(n)~~(n) "Defendant" includes a person in the position of defendant in a counterclaim or third-party
5 claim.

6 ~~(p)~~(o) "Delivery", with respect to an electronic document of title, means voluntary transfer of control
7 and, with respect to instruments, ~~tangible documents of title, or an instrument, a tangible document of title, or~~
8 an authoritative tangible copy of a record evidencing chattel paper, means voluntary transfer of possession.

9 ~~(p)~~(p) (i) "Document of title" means a record:

10 (A) that in the regular course of business or financing is treated as adequately evidencing that the
11 person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and
12 the goods the record covers; and

13 (B) that purports to be issued by or addressed to a bailee and to cover goods in the bailee's
14 possession which are either identified or are fungible portions of an identified mass.

15 (ii) The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse
16 receipt, and order for delivery of goods. An electronic document of title is evidenced by a record consisting of
17 information stored in an electronic medium. A tangible document of title is evidenced by a record consisting of
18 information that is inscribed on a tangible medium.

19 ~~(q)~~ "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,
20 electromagnetic, or similar capabilities.

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

22 (s) "Fungible goods" means:

23 (i) goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

24 (ii) goods which by agreement are treated as equivalent.

25 (t) "Genuine" means free of forgery or counterfeiting.

26 (u) "Good faith", except as otherwise provided in chapter 5, means honesty in fact and the
27 observance of reasonable commercial standards of fair dealing.

28 (v) "Holder" means:

1 (i) the person in possession of a negotiable instrument that is payable either to bearer or to an
2 identified person that is the person in possession;

3 (ii) a the person in possession of a negotiable tangible document of title if the goods are
4 deliverable either to bearer or to the order of the person in possession; or

5 (iii) a the person in control, other than pursuant to 30-7-107(7) of a negotiable electronic document
6 of title.

7 (w) "Insolvency proceedings" includes an assignment for the benefit of creditors or other
8 proceeding intended to liquidate or rehabilitate the estate of the person involved.

9 (x) "Insolvent" means:

10 (i) having generally ceased to pay debts in the ordinary course of business other than as a result
11 of bona fide dispute;

12 (ii) unable to pay debts as they become due; or

13 (iii) insolvent within the meaning of the federal bankruptcy law.

14 (y) "Money" means a medium of exchange that is currently authorized or adopted by a domestic or
15 foreign government and is not in an electronic form. The term includes a monetary unit of account established
16 by an intergovernmental organization or by pursuant to an agreement between two or more countries. The term
17 does not include an electronic record that is a medium of exchange recorded and transferable in a system that
18 existed and operated for the medium of exchange before the medium of exchange was authorized or adopted
19 by the government.

20 (z) "Organization" means a person other than an individual.

21 (aa) "Party", as distinct from "third party", means a person that has engaged in a transaction or
22 made an agreement subject to this code.

23 (bb) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited
24 liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality,
25 public corporation, or any other legal or commercial entity. The term includes a protected series, however
26 denominated, of an entity if the protected series is established under law other than this code that limits, or
27 limits if conditions specified under the law are satisfied, the ability of a creditor of the entity or of any other
28 protected series of the entity to satisfy a claim from assets of the protected series.

Amendment - 1st Reading/2nd House-blue – (H) Business and Labor

- 2023

68th Legislature 2023

Drafter: Todd Everts, 406-444-4023

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

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

5 (ee) "Purchaser" means a person that takes by purchase.

6 (ff) "Record" means information that is inscribed on a tangible medium or that is stored in an
7 electronic or other medium and is retrievable in perceivable form.

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

10 (hh) "Representative" means any other person empowered to act for another, including an agent, an
11 officer of a corporation or association, and a trustee, executor, or administrator of an estate.

12 (ii) "Right" includes a remedy.

13 (jj) "Security interest" means an interest in personal property or fixtures which secures payment or
14 performance of an obligation. The term also includes any interest of a consignor and a buyer of accounts,
15 chattel paper, a payment intangible, or a promissory note in a transaction that is subject to chapter 9A. The
16 special property interest of a buyer of goods on identification of those goods to a contract for sale under 30-2-
17 401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with chapter 9A.
18 Except as otherwise provided in 30-2-505, the right of a seller or lessor of goods under chapter 2 or 2A to retain
19 or acquire possession of the goods in not a "security interest", but a seller or lessor may also acquire a "security
20 interest" by complying with chapter 9A. The retention or reservation of title by a seller of goods notwithstanding
21 shipment or delivery to the buyer (30-2-401) is limited in effect to a reservation of a "security interest". Whether
22 a transaction in the form of a lease creates a "security interest" is determined pursuant to 30-1-211.

23 (kk) "Send", in connection with a ~~writing, record, or notice~~ notification, means:

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

28 (ii) ~~in any other way to cause to be received any record or notice within the time it would have~~

1 arrived if properly sent to cause the record or notification to be received within the time it would have been
2 received if properly sent under subsection (2)(kk)(i).

3 (ll) (i) ~~"Signed" includes any symbol executed or adopted with present intention to adopt or accept~~
4 ~~a writing.~~ "Sign" means, with present intent to authenticate or adopt a record:

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

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

7 (ii) "Signed", "signing", and "signature" have corresponding meanings.

8 (mm) "Surety" includes a guarantor or other secondary obligor.

9 (nn) "Term" means a portion of an agreement that relates to a particular matter.

10 (oo) "Unauthorized" signature means a signature made without actual, implied, or apparent
11 authority. The term includes a forgery.

12 (pp) "Warehouse receipt" means a document of title issued by a person engaged in the business of
13 storing goods for hire.

14 (qq) "Writing" includes printing, typewriting, or any other intentional reduction to tangible form. "Written"
15 has a corresponding meaning."
16

17 **Section 4.** Section 30-1-212, MCA, is amended to read:

18 **"30-1-212. Value.** Except as otherwise provided in chapters 3 through 5 ~~and sections 93 through~~
19 ~~108~~ sections 92 through 107, a person gives value for rights if the person acquires them:

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

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

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

25 (4) in return for any consideration sufficient to support a simple contract."
26

27 **Section 5.** Section 30-1-301, MCA, is amended to read:

28 **"30-1-301. Territorial applicability -- parties power to choose applicable law.** (1) Except as

1 otherwise provided in this section, when a transaction bears a reasonable relation to this state and also to
2 another state or nation, the parties may agree that the law either of this state or of the other state or nation shall
3 govern their rights and duties.

4 (2) In the absence of an agreement effective under subsection (1) and except as provided in
5 subsection (3), this code applies to transactions bearing an appropriate relation to this state.

6 (3) If one of the following provisions of this code specifies the applicable law, that provision
7 governs and a contrary agreement is effective only to the extent permitted by the law so specified:

8 (a) Section 30-2-402;

9 (b) Sections 30-2A-105 and 30-2A-106;

10 (c) Section 30-4-102;

11 (d) Section 30-4A-507;

12 (e) Section 30-5-136;

13 (f) Section 30-8-120;

14 (g) Sections 30-9A-301 through 30-9A-307;

15 (h) ~~Section [section 99]~~ [section 98]."

16

17 **Section 6.** Section 30-2-102, MCA, is amended to read:

18 **"30-2-102. Scope -- certain security and other transactions excluded from this chapter. (1)**

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

24 (2) In a hybrid transaction:

25 (a) if the sale-of-goods aspects do not predominate, only the provisions of this chapter that relate
26 primarily to the sale-of-goods aspects of the transaction apply, and the provisions that relate primarily to the
27 transaction as a whole do not apply;

28 (b) if the sale-of-goods aspects predominate, this chapter applies to the transaction but does not

1 (8) A person that has control under this section is not required to acknowledge that it has control
2 on behalf of another person.

3 (9) If a person acknowledges that it has or will obtain control on behalf of another person, unless
4 the person otherwise agrees or law other than chapter 9A or this chapter otherwise provides, the person does
5 not owe any duty to the other person and is not required to confirm the acknowledgment to any other person."

6

7 **Section 38.** Section 30-8-112, MCA, is amended to read:

8 **"30-8-112. Definitions and index of definitions.** (1) In this chapter:

9 (a) "Adverse claim" means a claim that a claimant has a property interest in a financial asset and
10 that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial
11 asset.

12 (b) "Bearer form" as applied to a certificated security, means a form in which the security is
13 payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.

14 (c) "Broker" means a person defined as a broker or dealer under the federal securities laws, but
15 without excluding a bank acting in that capacity.

16 (d) "Certificated security" means a security that is represented by a certificate.

17 (e) "Clearing corporation" means:

18 (i) a person that is registered as a "clearing agency" under the federal securities laws;

19 (ii) a federal reserve bank; or

20 (iii) any other person that provides clearance or settlement services with respect to financial assets
21 that would require it to register as a clearing agency under the federal securities laws but for an exclusion or
22 exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of
23 rules, are subject to regulation by a federal or state governmental authority.

24 (f) "Communicate" means to:

25 (i) send a signed writing record; or

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

28 (g) "Entitlement holder" means a person identified in the records of a securities intermediary as the

1 person having a security entitlement against the securities intermediary. If a person acquires a security
2 entitlement by virtue of 30-8-501(2)(b) or (2)(c), that person is the entitlement holder.

3 (h) "Entitlement order" means a notification communicated to a securities intermediary directing
4 transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

5 (i) (i) "Financial asset," except as otherwise provided in 30-8-113, means:

6 (A) a security;

7 (B) an obligation of a person or a share, participation, or other interest in a person or in property or
8 an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is
9 recognized in any area in which it is issued or dealt in as a medium for investment; or

10 (C) any property that is held by a securities intermediary for another person in a securities account
11 if the securities intermediary has expressly agreed with the other person that the property is to be treated as a
12 financial asset under this chapter.

13 (ii) As context requires, the term means either the interest itself or the means by which a person's
14 claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security
15 entitlement.

16 (j) "Good faith," for purposes of the obligation of good faith in the performance or enforcement of
17 contracts or duties within this chapter, means honesty in fact and the observance of reasonable commercial
18 standards of fair dealing.

19 (k) "Indorsement" means a signature that alone or accompanied by other words is made on a
20 security certificate in registered form or on a separate document for the purpose of assigning, transferring, or
21 redeeming the security or granting a power to assign, transfer, or redeem it.

22 (l) "Instruction" means a notification communicated to the issuer of an uncertificated security
23 which directs that the transfer of the security be registered or that the security be redeemed.

24 (m) "Registered form," as applied to a certificated security, means a form in which:

25 (i) the security certificate specifies a person entitled to the security; and

26 (ii) a transfer of the security may be registered upon books maintained for that purpose by or on
27 behalf of the issuer, or the security certificate so states.

28 (n) "Securities intermediary" means:

1 (i) a clearing corporation; or

2 (ii) a person, including a bank or broker, that in the ordinary course of its business maintains
3 securities accounts for others and is acting in that capacity.

4 (o) "Security," except as otherwise provided in 30-8-113, means an obligation of an issuer or a
5 share, participation, or other interest in an issuer or in property or an enterprise of an issuer:

6 (i) which is represented by a security certificate in bearer or registered form, or the transfer of
7 which may be registered upon books maintained for that purpose by or on behalf of the issuer;

8 (ii) which is one of a class or series or by its terms is divisible into a class or series of shares,
9 participations, interests, or obligations; and

10 (iii) which:

11 (A) is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

12 (B) is a medium for investment and by its terms expressly provides that it is a security governed by
13 this chapter.

14 (p) "Security certificate" means a certificate representing a security.

15 (q) "Security entitlement" means the rights and property interest of an entitlement holder with
16 respect to a financial asset specified in part 5 of this chapter.

17 (r) "Uncertificated security" means a security that is not represented by a certificate.

18 (2) ~~Other~~ The following definitions apply to in this chapter and the sections in which they appear
19 are other chapters apply to this chapter:

20 "Appropriate person" 30-8-117

21 "Control" 30-8-116

22 "Controllable account" 30-9A-102

23 "Controllable electronic record" ~~[section 94]~~ ~~[section 93]~~

24 "Controllable payment intangible" 30-9A-102

25 "Delivery" 30-8-331

26 "Investment company security" 30-8-113

27 "Issuer" 30-8-211

28 "Overissue" 30-8-220

1 "Protected purchaser" 30-8-333

2 "Securities account" 30-8-501

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

5 (4) The characterization of a person, business, or transaction for purposes of this chapter does not
6 determine the characterization of the person, business, or transaction for purposes of any other law, regulation,
7 or rule."

8

9 **Section 39.** Section 30-8-113, MCA, is amended to read:

10 **"30-8-113. Rules for determining whether certain obligations and interests are securities or**
11 **financial assets.** (1) A share or similar equity interest issued by a corporation, business trust, joint-stock
12 company, or similar entity is a security.

13 (2) An "investment company security" is a security. "Investment company security" means a share
14 or similar equity interest issued by an entity that is registered as an investment company under the federal
15 investment company laws, an interest in a unit investment trust that is so registered, or a face-amount
16 certificate issued by a face-amount certificate company that is so registered. Investment company security does
17 not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

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

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

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

27 (6) A commodity contract, as defined in 30-9A-102, is not a security or a financial asset.

28 (7) A document of title, as defined in 30-1-201(2)(q), is not a financial asset unless 30-8-

1 holder's own securities intermediary, the securities intermediary has control.

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

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

13 (8) A person that has control under this section is not required to acknowledge that it has control
14 on behalf of a purchaser.

15 (9) If a person acknowledges that it has or will obtain control on behalf of a purchaser, unless the
16 person otherwise agrees or law other than chapter 9A or this chapter otherwise provides, the person does not
17 owe any duty to the purchaser and is not required to confirm the acknowledgment to any other person."

18

19 **Section 41.** Section 30-8-120, MCA, is amended to read:

20 **"30-8-120. Applicability -- choice of law.** (1) The local law of the issuer's jurisdiction, as specified in
21 subsection (4), governs:

- 22 (a) the validity of a security;
- 23 (b) the rights and duties of the issuer with respect to registration of transfer;
- 24 (c) the effectiveness of registration of transfer by the issuer;
- 25 (d) whether the issuer owes any duties to an adverse claimant to a security; and
- 26 (e) whether an adverse claim can be asserted against a person to whom transfer of a certificated
27 or uncertificated security is registered or a person who obtains control of an uncertificated security.

28 (2) The local law of the securities intermediary's jurisdiction, as specified in subsection (5),

1 governs:

2 (a) acquisition of a security entitlement from the securities intermediary;

3 (b) the rights and duties of the securities intermediary and entitlement holder arising out of a
4 security entitlement;

5 (c) whether the securities intermediary owes any duties to an adverse claimant to a security
6 entitlement; and

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

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

13 (4) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized
14 or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer
15 organized under the law of this state may specify the law of another jurisdiction as the law governing the
16 matters specified in subsections (1)(b) through (1)(e).

17 (5) The following rules determine a "securities intermediary's jurisdiction" for purposes of this
18 section:

19 (a) If an agreement between the securities intermediary and its entitlement holder governing the
20 securities account expressly provides that a particular jurisdiction is the security intermediary's jurisdiction for
21 the purposes of this part, this chapter, or chapters 1 through 9A, ~~and [sections 93 through 108]~~ [sections 92
22 through 107] of this title, that jurisdiction is the securities intermediary's jurisdiction.

23 (b) If subsection (5)(a) does not apply and an agreement between the securities intermediary and
24 its entitlement holder expressly provides that the agreement is governed by the law of a particular jurisdiction,
25 that jurisdiction is the securities intermediary's jurisdiction.

26 (c) If neither subsection (5)(a) nor (5)(b) applies and an agreement between the securities
27 intermediary and its entitlement holder governing the securities account expressly provides that the securities
28 account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's

1 jurisdiction.

2 (d) If subsection (5)(a), (5)(b), or (5)(c) does not apply, the securities intermediary's jurisdiction is
3 the jurisdiction in which the office identified in an account statement as the office serving the entitlement
4 holder's account is located.

5 (e) If subsection (5)(a), (5)(b), (5)(c), or (5)(d) does not apply the securities intermediary's
6 jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located.

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

11 (7) The local law of the issuer's jurisdiction or the securities intermediary's jurisdiction governs a
12 matter or transaction specified in subsection (1) or (2) even if the matter or transaction does not bear any
13 relation to the jurisdiction."

14

15 **Section 42.** Section 30-8-333, MCA, is amended to read:

16 **"30-8-333. Protected purchaser.** (1) "Protected purchaser" means a purchaser of a certificated or
17 uncertificated security, or of an interest therein, who:

- 18 (a) gives value;
- 19 (b) does not have notice of any adverse claim to the security; and
- 20 (c) obtains control of the certificated or uncertificated security.

21 (2) ~~In addition to acquiring the rights of a purchaser, a~~ A protected purchaser also acquires its
22 interest in the security free of any adverse claim."

23

24 **Section 43.** Section 30-9A-102, MCA, is amended to read:

25 **"30-9A-102. Definitions and index of definitions.** (1) As used in this chapter, the following
26 definitions apply:

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

1 (b) (i) "Account", except as used in "account for", "account statement", "account to", "commodity
2 account" in subsection (1)(o), "customer's account", "deposit account" in subsection (1)(ff), "on account of", and
3 "statement of account", means a right to payment of a monetary obligation, whether or not earned by
4 performance:

5 (A) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed
6 of;

7 (B) for services rendered or to be rendered;

8 (C) for a policy of insurance issued or to be issued;

9 (D) for a secondary obligation incurred or to be incurred;

10 (E) for energy provided or to be provided;

11 (F) for the use or hire of a vessel under a charter or other contract;

12 (G) arising out of the use of a credit or charge card or information contained on or for use with the
13 card; or

14 (H) as winnings in a lottery or other game of chance operated or sponsored by a state,
15 governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental
16 unit of a state.

17 (ii) The term includes a controllable account and a health-care-insurance receivable.

18 (iii) The term does not include:

19 (A) ~~a right to payment evidenced by chattel paper or an instrument~~ chattel paper;

20 (B) a commercial tort claim;

21 (C) a deposit account;

22 (D) investment property;

23 (E) a letter-of-credit right; ~~or~~

24 (F) a right to payment for money or funds advanced or sold, other than a right arising out of the
25 use of a credit or charge card or information contained on or for use with the card; or

26 (G) rights to payment evidenced by an instrument.

27 (c) "Account debtor" means a person obligated on an account, chattel paper, or general intangible.

28 The term does not include a person obligated to pay a negotiable instrument, even if the negotiable instrument

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1 ~~constitutes part of evidences~~ chattel paper.

2 (d) "Accounting", except as used in "accounting for", means a record:

3 (i) ~~authenticated~~ signed by a secured party;

4 (ii) indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier
5 or 35 days later than the date of the record; and

6 (iii) identifying the components of the obligations in reasonable detail.

7 (e) "Agricultural lien" means an interest, other than a security interest, in farm products:

8 (i) that secures payment or performance of an obligation for:

9 (A) goods or services furnished in connection with a debtor's farming operation; or

10 (B) rent on real property leased by a debtor in connection with its farming operation;

11 (ii) that is created by statute in favor of a person that:

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

14 (B) leased real property to a debtor in connection with the debtor's farming operation; and

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

16 (f) "As-extracted collateral" means:

17 (i) oil, gas, or other minerals that are subject to a security interest that:

18 (A) is created by a debtor having an interest in the minerals before extraction; and

19 (B) attaches to the minerals as extracted; or

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

22 ~~(g) "Authenticate" means:~~

23 ~~(i) to sign; or~~

24 ~~(ii) with present intent to adopt or accept a record, to attach to or logically associate with the record an~~
25 ~~electronic sound, symbol, or process.~~

26 (g) (i) "Assignee", except as used in "assignee for benefit of creditors", means a person:

27 (A) in whose favor a security interest that secures an obligation is created or provided for under a
28 security agreement, whether or not the obligation is outstanding; or

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1 (B) to which an account, chattel paper, payment intangible, or promissory note has been sold.

2 (ii) The term includes a person to which a security interest has been transferred by a secured

3 party.

4 (h) (i) "Assignor" means a person that:

5 (A) under a security agreement creates or provides for a security interest that secures an

6 obligation; or

7 (B) sells an account, chattel paper, payment intangible, or promissory note.

8 (ii) The term includes a secured party that has transferred a security interest to another person.

9 (h)(i) "Bank" means an organization that is engaged in the business of banking. The term includes a
10 savings bank, savings and loan association, credit union, and trust company.

11 (i)(j) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

12 (j)(k) "Certificate of title" means a certificate of title with respect to which a statute provides for the
13 security interest in question to be indicated on the certificate as a condition or result of the security interest's
14 obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record
15 maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a
16 statute permits the security interest in question to be indicated on the record as a condition or result of the
17 security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

18 (k)(l) (i) "Chattel paper" means: a record or records that evidence both a monetary obligation and a
19 security interest in specific goods, a security interest in specific goods and software used in the goods, a
20 security interest in specific goods and license of software used in the goods, a lease of specific goods, or a
21 lease of specific goods and license of software used in the goods. In this subsection (1)(k)(i), "monetary
22 obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and
23 includes a monetary obligation with respect to software used in the goods.

24 (ii) (A) The term does not include:

25 (I) charters or other contracts involving the use or hire of a vessel; or

26 (II) records that evidence a right to payment arising out of the use of a credit or charge card or
27 information contained on or for use with the card.

28 (B) If a transaction is evidenced by records that include an instrument or series of instruments, the

1 ~~group of records taken together constitutes chattel paper.~~

2 (A) a right to payment of a monetary obligation secured by specific goods, if the right to payment
3 and security agreement are evidenced by a record; or

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

7 (I) the right to payment and lease agreement are evidenced by a record; and

8 (II) the predominant purpose of the transaction giving rise to the lease was to give the lessee the
9 right to possession and use of the goods.

10 (ii) The term does not include a right to payment arising out of a charter or other contract involving
11 the use or hire of a vessel or a right to payment arising out of the use of a credit or charge card or information
12 contained on or for use with the card.

13 ~~(h)(m)~~ "Collateral" means the property subject to a security interest or agricultural lien. The term
14 includes:

- 15 (i) proceeds to which a security interest attaches under 30-9A-315;
- 16 (ii) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and
- 17 (iii) goods that are the subject of a consignment.

18 ~~(m)(n)~~ "Commercial tort claim" means a claim arising in tort if:

- 19 (i) the claimant is an organization; or
- 20 (ii) the claimant is an individual and the claim:
 - 21 (A) arose in the course of the claimant's business or profession; and
 - 22 (B) does not include damages arising out of personal injury to or the death of an individual.

23 ~~(n)(o)~~ "Commodity account" means an account maintained by a commodity intermediary in which a
24 commodity contract is carried for a commodity customer.

25 ~~(o)(p)~~ "Commodity contract" means a commodity futures contract, an option on a commodity futures
26 contract, a commodity option, or another contract if the contract or option is:

- 27 (i) traded on or subject to the rules of a board of trade that has been designated as a contract
28 market for such a contract pursuant to federal commodities laws; or

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

3 ~~(p)~~(q) "Commodity customer" means a person for which a commodity intermediary carries a
4 commodity contract on its books.

5 ~~(q)~~(r) "Commodity intermediary" means a person that:

6 (i) is registered as a futures commission merchant under federal commodities law; or

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

9 ~~(r)~~(s) "Communicate" means:

10 (i) to send a written or other tangible record;

11 (ii) to transmit a record by any means agreed upon by the persons sending and receiving the
12 record; or

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

15 ~~(s)~~(t) "Consignee" means a merchant to which goods are delivered in a consignment.

16 ~~(t)~~(u) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to
17 a merchant for the purpose of sale and:

18 (i) the merchant:

19 (A) deals in goods of that kind under a name other than the name of the person making delivery;

20 (B) is not an auctioneer; and

21 (C) is not generally known by its creditors to be substantially engaged in selling the goods of
22 others;

23 (ii) with respect to each delivery, the aggregate value of the goods is \$1,000 or more at the time of
24 delivery;

25 (iii) the goods are not consumer goods immediately before delivery; and

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

27 ~~(u)~~(v) "Consignor" means a person that delivers goods to a consignee in a consignment.

28 ~~(v)~~(w) "Consumer debtor" means a debtor in a consumer transaction.

1 ~~(w)~~(x) "Consumer goods" means goods that are used or bought for use primarily for personal, family,
2 or household purposes.

3 ~~(x)~~(y) "Consumer-goods transaction" means a transaction to the extent that:

- 4 (i) an individual incurs an obligation primarily for personal, family, or household purposes; and
- 5 (ii) a security interest in consumer goods or in consumer goods and software that is used,
6 licensed, or bought for use primarily for personal, family, or household purposes secures the obligation.

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

9 ~~(z)~~(aa) "Consumer transaction" means a transaction to the extent that:

- 10 (i) an individual incurs an obligation primarily for personal, family, or household purposes;
- 11 (ii) a security interest secures the obligation; and
- 12 (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term
13 includes a consumer-goods transaction.

14 ~~(aa)~~(bb) "Continuation statement" means an amendment of a financing statement that:

- 15 (i) identifies, by its file number, the initial financing statement to which it relates; and
- 16 (ii) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of,
17 the identified financing statement.

18 ~~(cc)~~ "Controllable account" means an account evidenced by a controllable electronic record that
19 provides that the account debtor undertakes to pay the person that has control under ~~[section 97]~~ [section 96] of
20 the controllable electronic record.

21 ~~(dd)~~ "Controllable payment intangible" means a payment intangible evidenced by a controllable
22 electronic record that provides that the account debtor undertakes to pay the person that has control under
23 ~~[section 97]~~ [section 96] of the controllable electronic record.

24 ~~(bb)~~(ee) "Debtor" means:

- 25 (i) a person having a property interest, other than a security interest or other lien, in the collateral,
26 whether or not the person is an obligor;
- 27 (ii) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or
- 28 (iii) a consignee.

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1 ~~(ee)(ff)~~ "Deposit account" means a demand, time, savings, passbook, or similar account maintained
2 with a bank. The term does not include investment property or an account evidenced by an instrument.

3 ~~(dd)(gg)~~ "Document" means a document of title or a receipt of the type described in 30-7-201(2).

4 ~~(ee)~~ "Electronic chattel paper" means ~~chattel paper evidenced by a record or records consisting of~~
5 ~~information stored in an electronic medium.~~

6 ~~(hh) — "Electronic money" means money in an electronic form.~~

7 ~~(ff)(ii)(hh)~~ "Encumbrance" means a right, other than an ownership interest, in real property. The
8 term includes a mortgage and other lien on real property.

9 ~~(gg)(ii)(ii)~~ "Equipment" means goods other than inventory, farm products, or consumer goods.

10 ~~(hh)(kk)(jj)~~ "Farm products" means goods, other than standing timber, with respect to which the
11 debtor is engaged in a farming operation and that are:

12 (i) crops grown, growing, or to be grown, including:

13 (A) crops produced on trees, vines, and bushes; and

14 (B) aquatic goods produced in aquacultural operations;

15 (ii) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

16 (iii) supplies used or produced in a farming operation; or

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

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

20 ~~(jj)(ll)~~ "File number" means the number assigned to an initial financing statement pursuant to 30-9A-
21 519(1).

22 ~~(kk)(mm)~~ "Filing office" means an office designated in 30-9A-501 as the place to file a financing
23 statement.

24 ~~(ll)(nn)~~ "Filing-office rule" means a rule adopted pursuant to 30-9A-526.

25 ~~(mm)(oo)~~ "Financing statement" means a record or records composed of an initial financing statement
26 and any filed record relating to the initial financing statement.

27 ~~(nn)(pp)~~ "Fixture filing" means the filing of a financing statement covering goods that are or are to
28 become fixtures and satisfying the requirements of 30-9A-502(1) and (2). The term includes the filing of a

1 financing statement covering goods of a transmitting utility that are or are to become fixtures.

2 ~~(ee)~~(qq) "Fixtures" means goods that have become so related to particular real property that an
3 interest in them arises under real property law.

4 ~~(pp)~~(rr) "General intangible" means any personal property, including things in action, other than
5 accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment
6 property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The
7 term includes a ~~payment intangible and software~~ controllable electronic records, payment intangibles, and
8 software.

9 ~~(qq)~~(ss) "Good faith" means honesty in fact and the observance of reasonable commercial standards
10 of fair dealing.

11 ~~(rr)~~(tt) (i) "Goods" means all things that are movable when a security interest attaches. The term
12 includes:

13 (A) fixtures;

14 (B) standing timber that is to be cut and removed under a conveyance or contract for sale;

15 (C) the unborn young of animals;

16 (D) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or
17 bushes; and

18 (E) manufactured homes.

19 (ii) The term also includes a computer program structurally integrated with goods, any
20 informational content included in the program, and any supporting information provided in connection with a
21 transaction relating to the program or informational content if:

22 (A) the program is associated with the goods in such a manner that it customarily is considered
23 part of the goods; or

24 (B) by becoming the owner of the goods, a person would acquire a right to use the program in
25 connection with the goods.

26 (iii) The term does not include a program integrated with goods that consist solely of the medium
27 with which the program is integrated. The term also does not include accounts, chattel paper, commercial tort
28 claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit

1 rights, letters of credit, money, or oil, gas, or other minerals before extraction.

2 ~~(ss)~~(uu) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or
3 other unit of the government of the United States, a state, or a foreign country. The term includes an
4 organization with a separate corporate existence only if the organization is eligible to issue debt obligations on
5 which interest is exempt from income taxation under the laws of the United States.

6 ~~(tt)~~(vv) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance
7 that is a right to payment of a monetary obligation for health care goods or services provided.

8 ~~(uu)~~(ww) (i) "Instrument" means:

9 (A) a negotiable instrument; or

10 (B) any other writing that evidences a right to the payment of a monetary obligation, is not itself a
11 security agreement or lease, and is of a type that in the ordinary course of business is transferred by delivery
12 with any necessary indorsement or assignment.

13 (ii) The term does not include:

14 (A) investment property;

15 (B) a letter of credit; ~~or~~

16 (C) a writing that evidences a right to payment arising out of the use of a credit or charge card or
17 information contained on or for use with the card; or

18 (D) a writing that evidences chattel paper.

19 ~~(vv)~~(xx) "Inventory" means goods, other than farm products, that:

20 (i) are leased by a person as lessor;

21 (ii) are held by a person for sale or lease or to be furnished under contracts of service;

22 (iii) are furnished by a person under a contract of service; or

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

24 ~~(ww)~~(yy) "Investment property" means a security, whether certificated or uncertificated, security
25 entitlement, securities account, commodity contract, or commodity account.

26 ~~(xx)~~(zz) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction
27 under whose law the organization is formed or organized.

28 ~~(yy)~~(aaa) (i) "Letter-of-credit right" means a right to payment and performance under a letter of credit,

1 whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance.

2 (ii) The term does not include the right of a beneficiary to demand payment or performance under
3 a letter of credit.

4 ~~(zz)~~(bbb) "Lien creditor" means:

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

6 (ii) an assignee for benefit of creditors from the time of assignment;

7 (iii) a trustee in bankruptcy from the date of the filing of the petition; and

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

9 ~~(aaa)~~(ccc) "Manufactured home" means a structure, transportable in one or more sections, that in the
10 traveling mode is 8 body feet or more in width or 40 body feet or more in length or that when erected on site is
11 320 or more square feet and that is built on a permanent chassis and designed to be used as a dwelling with or
12 without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-
13 conditioning, and electrical systems contained therein. The term includes any structure that meets all of the
14 requirements of this subsection except the size requirements and with respect to which the manufacturer
15 voluntarily files a certification required by the United States secretary of housing and urban development and
16 complies with the standards established under Title 42 of the United States Code.

17 ~~(bbb)~~(ddd) "Manufactured-home transaction" means a secured transaction:

18 (i) that creates a purchase-money security interest in a manufactured home, other than a
19 manufactured home held as inventory; or

20 (ii) in which a manufactured home, other than a manufactured home held as inventory, is the
21 primary collateral.

22 ~~(eee)~~ "Money" has the meaning in ~~30-1-201(2)(z)~~ 30-1-201(2)(y), but does not include:

23 ~~(i)~~ a deposit account; or

24 ~~(ii)~~ money in an electronic form that cannot be subjected to control under [section 46].

25 ~~(ccc)~~(fff) "Mortgage" means a consensual interest in real property, including fixtures, that is created by
26 a mortgage, trust deed, or similar transaction.

27 ~~(ddd)~~(ggg) "New debtor" means a person that becomes bound as debtor under 30-9A-203(4) by a
28 security agreement previously entered into by another person.

1 ~~(eee)~~(hhh) (i) "New value" means:

2 (A) money;

3 (B) money's worth in property, services, or new credit; or

4 (C) release by a transferee of an interest in property previously transferred to the transferee.

5 (ii) The term does not include an obligation substituted for another obligation.

6 ~~(fff)~~(iii) "Noncash proceeds" means proceeds other than cash proceeds.

7 ~~(ggg)~~(iii) (i) "Obligor" means a person that, with respect to an obligation secured by a security interest
8 in or an agricultural lien on the collateral:

9 (A) owes payment or other performance of the obligation;

10 (B) has provided property other than the collateral to secure payment or other performance of the
11 obligation; or

12 (C) is otherwise accountable in whole or in part for payment or other performance of the obligation.

13 (ii) The term does not include an issuer or a nominated person under a letter of credit.

14 ~~(hhh)~~(kkk) "Original debtor", except as used in 30-9A-310(3), means a person that, as debtor, entered
15 into a security agreement to which a new debtor has become bound under 30-9A-203(4).

16 ~~(iii)~~(III) (i) "Payment intangible" means a general intangible under which the account debtor's principal
17 obligation is a monetary obligation.

18 (ii) The term includes a controllable payment intangible.

19 ~~(jjj)~~(mmm) "Person related to", with respect to an individual, means:

20 (i) the spouse of the individual;

21 (ii) a brother, brother-in-law, sister, or sister-in-law of the individual;

22 (iii) an ancestor or lineal descendant of the individual or the individual's spouse; and

23 (iv) any other relative, by blood or marriage, of the individual or the individual's spouse who shares
24 the same home with the individual.

25 ~~(kkk)~~(nnn) "Person related to", with respect to an organization, means:

26 (i) a person directly or indirectly controlling, controlled by, or under common control with the
27 organization;

28 (ii) an officer or director of, or a person performing similar functions with respect to, the

1 organization;

2 (iii) an officer or director of, or a person performing similar functions with respect to, a person

3 described in subsection ~~(1)(kkk)(i)~~ (1)(nnn)(i);

4 (iv) the spouse of an individual described in subsection ~~(1)(kkk)(i), (1)(kkk)(ii), or (1)(kkk)(iii)~~

5 (1)(nnn)(i), (1)(nnn)(ii), or (1)(nnn)(iii); or

6 (v) an individual who is related by blood or marriage to an individual described in subsections

7 ~~(1)(kkk)(i), (1)(kkk)(ii), (1)(kkk)(iii), or (1)(kkk)(iv)~~ (1)(nnn)(i), (1)(nnn)(ii), (1)(nnn)(iii), or (1)(nnn)(iv) and shares

8 the same home with the individual.

9 ~~(lll)(ooo)~~ "Proceeds", except as used in 30-9A-609(2), means the following property:

10 (i) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

11 (ii) whatever is collected on, or distributed on account of, collateral;

12 (iii) rights arising out of collateral;

13 (iv) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or

14 interference with the use of, defects or infringement of rights in, or damage to the collateral; and

15 (v) to the extent of the value of collateral and to the extent payable to the debtor or the secured

16 party, insurance payable by reason of the loss or nonconformity of, defects in, or damage to the collateral.

17 ~~(mmm)(ppp)~~ "Promissory note" means an instrument that:

18 (i) evidences a promise to pay a monetary obligation;

19 (ii) does not evidence an order to pay; and

20 (iii) does not contain an acknowledgment by a bank that the bank has received for deposit a sum

21 of money or funds.

22 ~~(ann)(qqq)~~ "Proposal" means a record ~~authenticated~~ signed by a secured party and including the terms

23 on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures

24 pursuant to 30-9A-620 through 30-9A-622.

25 ~~(oee)(rrr)~~ "Public-finance transaction" means a secured transaction in connection with which:

26 (i) bonds, debentures, certificates of participation, or similar debt securities are issued;

27 (ii) all or a portion of the securities issued have an initial stated maturity of at least 20 years; and

28 (iii) the debtor, the obligor, the secured party, the account debtor or other person obligated on

1 collateral, the assignor or assignee of a secured obligation, or the assignor or assignee of a security interest is
2 a state or a governmental unit of a state.

3 ~~(ppp)~~(sss) "Public organic record" means a record that is available to the public for inspection and is:

4 (i) a record consisting of the record initially filed with or issued by a state or the United States to
5 form or organize an organization and any record filed with or issued by the state or the United States which
6 amends or restates the initial record;

7 (ii) an organic record of a business trust consisting of the record initially filed with a state and any
8 record filed with the state which amends or restates the initial record, if a statute of the state governing
9 business trusts requires that the record be filed with the state; or

10 (iii) a record consisting of legislation enacted by the legislature of a state or the congress of the
11 United States which forms or organizes an organization, any record amending the legislation, and any record
12 filed with or issued by the state or the United States which amends or restates the name of the organization.

13 ~~(qqq)~~(ttt) "Pursuant to commitment", with respect to an advance made or other value given by a
14 secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default
15 or other event not within the secured party's control has relieved or may relieve the secured party from its
16 obligation.

17 ~~(rrr)~~(uuu) "Record", except as used in "for record", "of record", "record or legal title", and "record
18 owner", means information that is inscribed on a tangible medium or that is stored in an electronic or other
19 medium and is retrievable in perceivable form.

20 ~~(sss)~~(vvv) "Registered organization" means an organization formed or organized solely under the law
21 of one state or the United States by the filing of a public organic record with, the issuance of a public organic
22 record by, or the enactment of legislation by the state or the United States. The term includes a business trust
23 that is formed or organized under the law of a single state if a statute of the state governing business trusts
24 requires that the business trust's organic record be filed with the state.

25 ~~(ttt)~~(www) "Secondary obligor" means an obligor to the extent that:

26 (i) the obligor's obligation is secondary; or

27 (ii) the obligor has a right of recourse with respect to an obligation secured by collateral against
28 the debtor, another obligor, or property of either.

1 ~~(uuu)~~(xxx) "Secured party" means:

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

4 (ii) a person that holds an agricultural lien;

5 (iii) a consignor;

6 (iv) a person to which accounts, chattel paper, payment intangibles, or promissory notes have
7 been sold;

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

10 (vi) a person that holds a security interest arising under 30-2-401, 30-2-505, 30-2-711(3), 30-2A-
11 508(5), 30-4-208, or 30-5-118.

12 ~~(vvv)~~(yyy) "Security agreement" means an agreement that creates or provides for a security interest.

13 ~~(www)~~ "Send", in connection with a record or notification, means to:

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

17 (ii) ~~cause the record or notification to be received within the time that it would have been received if~~
18 ~~properly sent under subsection (1)(www)(i).~~

19 ~~(xxx)~~(zzz) (i) "Software" means a computer program, any informational content included in the
20 program, and any supporting information provided in connection with a transaction relating to the computer
21 program or informational content.

22 (ii) The term does not include a computer program that is contained in goods unless the goods are
23 a computer or computer peripheral.

24 ~~(yyy)~~(aaaa) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
25 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United
26 States.

27 ~~(zzz)~~(bbbb) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports
28 the payment or performance of an account, chattel paper, document, general intangible, instrument, or

1 investment property.

2 ~~(aaaa) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of~~
3 ~~information that is inscribed on a tangible medium.~~

4 ~~(cccc) "Tangible money" means money in a tangible form.~~

5 ~~(bbb)(ddd)(cccc)~~ "Termination statement" means an amendment of a financing statement that:

- 6 (i) identifies, by its file number, the initial financing statement to which it relates; and
- 7 (ii) indicates either that it is a termination statement or that the identified financing statement is no
- 8 longer effective.

9 ~~(ccc)(eee)(ddd)~~ "Transmitting utility" means a person primarily engaged in the business of:

- 10 (i) operating a railroad, subway, street railway, or trolley bus;
- 11 (ii) transmitting electric or electronic communications;
- 12 (iii) transmitting goods by pipeline or sewer; or
- 13 (iv) transmitting or producing and transmitting electricity, steam, gas, or water.

14 (2) The following definitions in other chapters apply to this chapter:

15 "Applicant" 30-5-122.

16 "Beneficiary" 30-5-122.

17 "Broker" 30-8-112.

18 "Certificated security" 30-8-112.

19 "Check" 30-3-104.

20 "Clearing corporation" 30-8-112.

21 "Contract for sale" 30-2-106.

22 "Control" (with respect to a document of title) 30-7-107.

23 "Controllable electronic record" ~~[section 94]~~ [section 93].

24 "Customer" 30-4-104.

25 "Entitlement holder" 30-8-112.

26 "Financial asset" 30-8-112.

27 "Holder in due course" 30-3-302.

28 "Issuer" (with respect to a letter of credit or letter-of-credit right) 30-5-122.

- 1 "Issuer" (with respect to a security) 30-8-211.
- 2 "Lease" 30-2A-103.
- 3 "Lease agreement" 30-2A-103.
- 4 "Lease contract" 30-2A-103.
- 5 "Leasehold interest" 30-2A-103.
- 6 "Lessee" 30-2A-103.
- 7 "Lessee in ordinary course of business" 30-2A-103.
- 8 "Lessor" 30-2A-103.
- 9 "Lessor's residual interest" 30-2A-103.
- 10 "Letter of credit" 30-5-122.
- 11 "Merchant" 30-2-104.
- 12 "Negotiable instrument" 30-3-104.
- 13 "Nominated person" 30-5-122.
- 14 "Note" 30-3-104.
- 15 "Proceeds of a letter of credit" 30-5-134.
- 16 "Protected purchaser" 30-8-333.
- 17 "Prove" 30-3-102.
- 18 "Qualifying purchaser" ~~section 94~~ [section 93].
- 19 "Sale" 30-2-106.
- 20 "Securities account" 30-8-501.
- 21 "Securities intermediary" 30-8-112.
- 22 "Security" 30-8-112.
- 23 "Security certificate" 30-8-112.
- 24 "Security entitlement" 30-8-112.
- 25 "Uncertificated security" 30-8-112.
- 26 (3) Chapter 1 contains general definitions and principles of construction and interpretation
- 27 applicable throughout this chapter."
- 28

1 (ii) transfer control of the authoritative electronic copy.
 2 (4) Subject to subsection (5), a power is exclusive under subsections (3)(c)(i) and (3)(c)(ii) even if:
 3 (a) the authoritative electronic copy, a record attached to or logically associated with the
 4 authoritative electronic copy, or a system in which the authoritative electronic copy is recorded limits the use of
 5 the authoritative electronic copy or has a protocol programmed to cause a change, including a transfer or loss
 6 of control; or

7 (b) the power is shared with another person.

8 (5) A power of a purchaser is not shared with another person under subsection (4)(b) and the
 9 purchaser’s power is not exclusive if:

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

11 and

12 (b) the other person:

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

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

15 (6) If a purchaser has the powers specified in subsections (3)(c)(i) and (3)(c)(ii), the powers are
 16 presumed to be exclusive.

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

19 (a) has control of the authoritative electronic copy and acknowledges that it has control on behalf
 20 of the purchaser; or

21 (b) obtains control of the authoritative electronic copy after having acknowledged that it will obtain
 22 control of the electronic copy on behalf of the purchaser."

23

24 ~~_____ **NEW SECTION. Section 46. Control of electronic money.** (1) A person has control of electronic~~
 25 ~~money if:~~

26 ~~(a) _____ the electronic money, a record attached to or logically associated with the electronic money, or~~
 27 ~~a system in which the electronic money is recorded gives the person:~~

28 ~~(i) _____ power to avail itself of substantially all the benefit from the electronic money; and~~

- 1 ~~(ii) — exclusive power, subject to subsection (2), to:~~
- 2 ~~(A) — prevent others from availing themselves of substantially all the benefit from the electronic~~
- 3 ~~money; and~~
- 4 ~~(B) — transfer control of the electronic money to another person or cause another person to obtain~~
- 5 ~~control of other electronic money as a result of the transfer of the electronic money; and~~
- 6 ~~(b) — the electronic money, a record attached to or logically associated with the electronic money, or~~
- 7 ~~a system in which the electronic money is recorded enables the person readily to identify itself in any way,~~
- 8 ~~including by name, identifying number, cryptographic key, office, or account number, as having the powers~~
- 9 ~~under subsection (1)(a).~~
- 10 ~~(2) — Subject to subsection (3), a power is exclusive under subsections (1)(a)(ii)(A) and (1)(a)(ii)(B)~~
- 11 ~~even if:~~
- 12 ~~(a) — the electronic money, a record attached to or logically associated with the electronic money, or~~
- 13 ~~a system in which the electronic money is recorded limits the use of the electronic money or has a protocol~~
- 14 ~~programmed to cause a change, including a transfer or loss of control; or~~
- 15 ~~(b) — the power is shared with another person.~~
- 16 ~~(3) — A power of a person is not shared with another person under subsection (2)(b) and the~~
- 17 ~~person's power is not exclusive if:~~
- 18 ~~(a) — the person can exercise the power only if the power also is exercised by the other person; and~~
- 19 ~~(b) — the other person:~~
- 20 ~~(i) — can exercise the power without exercise of the power by the person; or~~
- 21 ~~(ii) — is the transferor to the person of an interest in the electronic money.~~
- 22 ~~(4) — If a person has the powers specified in subsection (1)(a)(ii)(A) and (1)(a)(ii)(B), the powers are~~
- 23 ~~presumed to be exclusive.~~
- 24 ~~(5) — A person has control of electronic money if another person, other than the transferor to the~~
- 25 ~~person of an interest in the electronic money:~~
- 26 ~~(a) — has control of the electronic money and acknowledges that it has control on behalf of the~~
- 27 ~~person; or~~
- 28 ~~(b) — obtains control of the electronic money after having acknowledged that it will obtain control of~~

1 ~~the electronic money on behalf of the person.~~

2

3 NEW SECTION. Section 46. Control of controllable electronic record, controllable account, or
4 **controllable payment intangible.** (1) A secured party has control of a controllable electronic record as
5 provided in ~~[section 97]~~ [section 96].

6 (2) A secured party has control of a controllable account or controllable payment intangible if the
7 secured party has control of the controllable electronic record that evidences the controllable account or
8 controllable payment intangible.

9

10 NEW SECTION. Section 47. No requirement to acknowledge or confirm -- no duties. (1) A
11 person that has control under 30-9A-104, or 30-9A-105, ~~or [section 46]~~ is not required to acknowledge that it
12 has control on behalf of another person.

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

16

17 **Section 48.** Section 30-9A-203, MCA, is amended to read:

18 **"30-9A-203. Attachment and enforcement of security interest -- proceeds -- supporting**
19 **obligations -- formal requisites.** (1) A security interest attaches to collateral when it becomes enforceable
20 against the debtor with respect to the collateral, unless an agreement expressly postpones the time of
21 attachment.

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

24 (a) value has been given;

25 (b) the debtor has rights in the collateral or the power to transfer rights in the collateral to a
26 secured party; and

27 (c) one of the following conditions is met:

28 (i) the debtor has ~~authenticated~~ signed a security agreement that provides a description of the

1 collateral and, if the security interest covers timber to be cut, a description of the land concerned;

2 (ii) the collateral is not a certificated security and is in the possession of the secured party under
3 30-9A-313 pursuant to the debtor's security agreement;

4 (iii) the collateral is a certificated security in registered form and the security certificate has been
5 delivered to the secured party under 30-8-331 pursuant to the debtor's security agreement; or

6 (iv) the collateral is controllable accounts, controllable electronic records, controllable payment
7 intangibles, a deposit account, electronic chattel paper, deposit accounts, electronic documents, ~~electronic~~
8 money, investment property, or a letter-of-credit right rights, or electronic document and the secured party has
9 control under 30-7-107, 30-9A-104, ~~30-9A-105, [section 46],~~ 30-9A-106, ~~or~~ 30-9A-107, or [section 47] [section
10 46] pursuant to the debtor's security agreement; or

11 (v) the collateral is chattel paper and the secured party has possession and control under [section
12 64] pursuant to the debtor's security agreement.

13 (3) Subsection (2) is subject to 30-4-208 on the security interest of a collecting bank, 30-5-118 on
14 the security interest of a letter-of-credit issuer or nominated person, 30-9A-110 on a security interest arising
15 under chapter 2 or 2A, and 30-9A-206 on security interests in investment property.

16 (4) A person becomes bound as debtor by a security agreement entered into by another person if,
17 by operation of law other than this chapter or by contract:

18 (a) the security agreement becomes effective to create a security interest in the person's property;
19 or

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

23 (5) If a new debtor becomes bound as debtor by a security agreement entered into by another
24 person:

25 (a) the agreement satisfies the requirements of subsection (2)(c) with respect to existing or after-
26 acquired property of the new debtor to the extent the property is described in the agreement; and

27 (b) another agreement is not necessary to make a security interest in the property enforceable.

28 (6) The attachment of a security interest in collateral gives the secured party the rights to proceeds

1 provided by 30-9A-315 and is also attachment of a security interest in a supporting obligation for the collateral.

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

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

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

9

10 **Section 49.** Section 30-9A-204, MCA, is amended to read:

11 **"30-9A-204. After acquired property -- future advances.** (1) Except as otherwise provided in
12 subsection (2), a security agreement may create or provide for a security interest in after-acquired collateral.

13 (2) (a) A-Subject to subsection (2)(b), a security interest does not attach under a term constituting
14 an after-acquired property clause to:

15 (a)(i) consumer goods, other than an accession when given as additional security, unless the debtor
16 acquires rights in them within 10 days after the secured party gives value; or

17 (b)(ii) a commercial tort claim.

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

19 (i) to consumer goods as proceeds under 30-9A-315(1) or commingled goods under 30-
20 9A-336(3);

21 (ii) to a commercial tort claim as proceeds under 30-9A-315(1); or

22 (iii) under an after-acquired property clause to property that is proceeds of consumer goods or a
23 commercial tort claim.

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

27

28 **Section 50.** Section 30-9A-207, MCA, is amended to read:

1 **"30-9A-207. Rights and duties of secured party having possession or control of collateral. (1)**

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

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

7 (a) reasonable expenses, including the cost of insurance and payment of taxes or other charges,
8 incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are
9 secured by the collateral;

10 (b) the risk of accidental loss or damage is on the debtor to the extent of a deficiency in any
11 effective insurance coverage;

12 (c) the secured party shall keep the collateral identifiable, but fungible collateral may be
13 commingled; and

14 (d) the secured party may use or operate the collateral:

15 (i) for the purpose of preserving the collateral or its value;

16 (ii) as permitted by an order of a court having competent jurisdiction; or

17 (iii) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

18 (3) Except as otherwise provided in subsection (4), a secured party having possession of collateral

19 or control of collateral under 30-7-107, 30-9A-104, 30-9A-105, ~~section 46~~, 30-9A-106, ~~or~~ 30-9A-107, or

20 section 47 ~~section 46~~:

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

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

25 (c) may create a security interest in the collateral.

26 (4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory
27 notes or a consignor:

28 (a) subsection (1) does not apply unless the secured party is entitled by agreement:

- 1 (i) to charge back uncollected collateral; or
- 2 (ii) otherwise to full or limited recourse against the debtor or a secondary obligor based on the
- 3 nonpayment or other default of an account debtor or other obligor on the collateral; and
- 4 (b) subsections (2) and (3) do not apply."

5

6 **Section 51.** Section 30-9A-208, MCA, is amended to read:

7 **"30-9A-208. Additional duties of secured party having control of collateral.** (1) This section
8 applies if:

- 9 (a) there is no outstanding secured obligation; and
- 10 (b) the secured party is not committed to make advances, incur obligations, or otherwise give
- 11 value.

12 (2) Within 10 days after receiving an ~~authenticated~~ a signed demand by the debtor:

- 13 (a) a secured party having control of a deposit account under 30-9A-104(1)(b) shall send to the
- 14 bank with which the deposit account is maintained an ~~authenticated statement~~ a signed record that releases the
- 15 bank from any further obligation to comply with instructions originated by the secured party;
- 16 (b) a secured party having control of a deposit account under 30-9A-104(1)(c) shall:
 - 17 (i) pay the debtor the balance on deposit in the deposit account; or
 - 18 (ii) transfer the balance on deposit into a deposit account in the debtor's name;

19 ~~(c) a secured party, other than a buyer, having control of electronic chattel paper under 30-9A-105~~
20 shall:

21 ~~(i) communicate the authoritative copy of the electronic chattel paper to the debtor or its designated~~
22 ~~custodian;~~

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

28 ~~(iii) take appropriate action to enable the debtor or its designated custodian to make copies of or~~

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1 ~~revisions to the authoritative copy that add or change an identified assignee of the authoritative copy without~~
2 ~~the consent of the secured party;~~

3 (c) a secured party, other than a buyer, having control under 30-9A-105 of an authoritative
4 electronic copy of a record evidencing chattel paper shall transfer control of the electronic copy to the debtor or
5 a person designated by the debtor;

6 (d) a secured party having control of investment property under 30-8-116(4)(b) or 30-9A-106(2)
7 shall send to the securities intermediary or commodity intermediary with which the security entitlement or
8 commodity contract is maintained ~~an authenticated~~ a signed record that releases the securities intermediary or
9 commodity intermediary from any further obligation to comply with entitlement orders or directions originated by
10 the secured party;

11 (e) a secured party having control of a letter-of-credit right under 30-9A-107 shall send to each
12 person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party ~~an~~
13 ~~authenticated~~ a signed release from any further obligation to pay or deliver proceeds of the letter of credit to the
14 secured party; ~~and~~

15 ~~(f) a secured party having control of an electronic document shall:~~

16 ~~(i) give control of the electronic document to the debtor or its designated custodian;~~

17 ~~(ii) if the debtor designates a custodian that is the designated custodian with which the authoritative~~
18 ~~copy of the electronic document is maintained for the secured party, communicate to the custodian an~~
19 ~~authenticated record releasing the designated custodian from any further obligation to comply with instructions~~
20 ~~originated by the secured party and instructing the custodian to comply with instructions originated by the~~
21 ~~debtor; and~~

22 ~~(iii) take appropriate action to enable the debtor or its designated custodian to make copies of or~~
23 ~~revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without~~
24 ~~the consent of the secured party.~~

25 (f) a secured party having control under 30-7-107 of an authoritative electronic copy of an
26 electronic document of title shall transfer control of the electronic copy to the debtor or a person designated by
27 the debtor;

28 (g) a secured party having control under [section 46] of electronic money shall transfer control of

1 ~~the electronic money to the debtor or a person designated by the debtor;~~ and
 2 ~~(h)(g)~~ a secured party having control under ~~[section 97]~~ [section 96] of a controllable electronic
 3 ~~record, other than a buyer of a controllable account or controllable payment intangible evidenced by the~~
 4 ~~controllable electronic record, shall transfer control of the controllable electronic record to the debtor or a~~
 5 ~~person designated by the debtor."~~

6

7 **Section 52.** Section 30-9A-209, MCA, is amended to read:

8 **"30-9A-209. Duties of secured party if account debtor has been notified of assignment.** (1)

9 Except as otherwise provided in subsection (3), this section applies if:

- 10 (a) there is no outstanding secured obligation; and
- 11 (b) the secured party is not committed to make advances, incur obligations, or otherwise give
12 value.

13 (2) Within 10 days after receiving an ~~authenticated~~ a signed demand by the debtor, a secured
 14 party shall send to an account debtor that has received notification under 30-9A-406(1) or [section 98(2)]
 15 [section 97(2)] of an assignment to the secured party as assignee under 30-9A-406 (1) an authenticated a
 16 signed record that releases the account debtor from any further obligation to the secured party.

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

19

20 **Section 53.** Section 30-9A-210, MCA, is amended to read:

21 **"30-9A-210. Request for accounting -- request regarding list of collateral or statement of**

22 **account.** (1) In this section, the following definitions apply:

- 23 (a) "Request" means a record of a type described in subsection (1)(b), (1)(c), or (1)(d).
- 24 (b) "Request for an accounting" means a record ~~authenticated~~ signed by a debtor requesting that
 25 the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying
 26 the transaction or relationship that is the subject of the request.
- 27 (c) "Request regarding a list of collateral" means a record ~~authenticated~~ signed by a debtor
 28 requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an

1 (6) A debtor is entitled without charge to one response to a request under this section during any
2 6-month period. The secured party may require payment of a charge not exceeding \$25 for each additional
3 response."
4

5 **Section 54.** Section 30-9A-301, MCA, is amended to read:

6 **"30-9A-301. Law governing perfection and priority of security interests.** Except as otherwise
7 provided in 30-9A-303 through 30-9A-306 and ~~section 59~~ section 58, the following rules determine the law
8 governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

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

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

14 (3) Except as otherwise provided in subsection (4), while tangible negotiable tangible documents,
15 goods, instruments, or tangible money, ~~or tangible chattel paper~~ is located in a jurisdiction, the local law of that
16 jurisdiction governs:

- 17 (a) perfection of a security interest in the goods by filing a fixture filing;
- 18 (b) perfection of a security interest in timber to be cut; and
- 19 (c) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in
20 the collateral.

21 (4) The local law of the jurisdiction in which the wellhead or minehead is located governs
22 perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted
23 collateral."
24

25 **Section 55.** Section 30-9A-304, MCA, is amended to read:

26 **"30-9A-304. Law governing perfection and priority of security interests in deposit accounts.** (1)
27 The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the
28 priority of a security interest in a deposit account maintained with that bank even if the transaction does not

1 perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity
2 account.

3 (e) Subsections (1)(b), (1)(c), and (1)(d) apply even if the transaction does not bear any relation to the
4 jurisdiction.

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

6 (a) If an agreement between the commodity intermediary and commodity customer governing the
7 commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction
8 for purposes of chapters 1 through 9A or this part, that jurisdiction is the commodity intermediary's jurisdiction.

9 (b) If subsection (2)(a) does not apply and an agreement between the commodity intermediary and
10 commodity customer governing the commodity account expressly provides that the agreement is governed by
11 the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

12 (c) If subsection (2)(a) or (2)(b) does not apply and an agreement between the commodity
13 intermediary and commodity customer governing the commodity account expressly provides that the
14 commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity
15 intermediary's jurisdiction.

16 (d) If none of the preceding subsections applies, the commodity intermediary's jurisdiction is the
17 jurisdiction in which the office identified in an account statement as the office serving the commodity customer's
18 account is located.

19 (e) If none of the preceding subsections applies, the commodity intermediary's jurisdiction is the
20 jurisdiction in which the chief executive office of the commodity intermediary is located.

21 (3) The local law of the jurisdiction in which the debtor is located governs:

22 (a) perfection of a security interest in investment property by filing;

23 (b) automatic perfection of a security interest in investment property granted by a broker or
24 securities intermediary; and

25 (c) automatic perfection of a security interest in a commodity contract or commodity account
26 granted by a commodity intermediary."

27

28 NEW SECTION. Section 57. Laws governing perfection and priority of security interests in

1 **chattel paper.** (1) Except as provided in subsection (4), if chattel paper is evidenced only by an authoritative
2 electronic copy of the chattel paper or is evidenced by an authoritative electronic copy and an authoritative
3 tangible copy, the local law of the chattel paper’s jurisdiction governs perfection, the effect of perfection or
4 nonperfection, and the priority of a security interest in the chattel paper, even if the transaction does not bear
5 any relation to the chattel paper’s jurisdiction.

6 (2) The following rules determine the chattel paper’s jurisdiction under this section:

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

11 (b) If subsection (2)(a) does not apply and the rules of the system in which the authoritative
12 electronic copy is recorded are readily available for review and expressly provide that a particular jurisdiction is
13 the chattel paper’s jurisdiction for purposes of this part, this chapter, or this code, that jurisdiction is the chattel
14 paper’s jurisdiction.

15 (c) If subsections (2)(a) and (2)(b) do not apply and the authoritative electronic copy, or a record
16 attached to or logically associated with the electronic copy and readily available for review, expressly provides
17 that the chattel paper is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper’s
18 jurisdiction.

19 (d) If subsections (2)(a), (2)(b), and (2)(c) do not apply and the rules of the system in which the
20 authoritative electronic copy is recorded are readily available for review and expressly provide that the chattel
21 paper or the system is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper’s
22 jurisdiction.

23 (e) If subsection (2)(a) through (2)(d) do not apply, the chattel paper’s jurisdiction is the jurisdiction
24 in which the debtor is located.

25 (3) If an authoritative tangible copy of a record evidences chattel paper and the chattel paper is not
26 evidenced by an authoritative electronic copy, while the authoritative tangible copy of the record evidencing
27 chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

28 (a) perfection of a security interest in the chattel paper by possession under ~~section 64~~ [section](#)

1 ~~63~~; and

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

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

6
7 **NEW SECTION. Section 58. Law governing perfection and priority of security interests in**
8 **controllable accounts, controllable electronic records, and controllable payment intangibles.** (1) Except
9 as provided in subsection (2), the local law of the controllable electronic record's jurisdiction specified in
10 ~~[section 99(3) and (4)] [section 98(3) and (4)]~~ governs perfection, the effect of perfection or nonperfection, and
11 the priority of a security interest in a controllable electronic record and a security interest in a controllable
12 account or controllable payment intangible evidenced by the controllable electronic record.

13 (2) The local law of the jurisdiction in which the debtor is located governs:

14 (a) perfection of a security interest in a controllable account, controllable electronic record, or
15 controllable payment intangible by filing; and

16 (b) automatic perfection of a security interest in a controllable payment intangible created by a sale
17 of the controllable payment intangible.

18

19 **Section 59.** Section 30-9A-310, MCA, is amended to read:

20 **"30-9A-310. When filing required to perfect security interest or agricultural lien -- security**
21 **interests and agricultural liens to which filing provisions do not apply.** (1) Except as otherwise provided in
22 30-9A-312(2) or subsection (2) of this section, a financing statement must be filed to perfect all security
23 interests and agricultural liens.

24 (2) The filing of a financing statement is not necessary to perfect a security interest:

25 (a) that is perfected under 30-9A-308(4), (5), (6), or (7);

26 (b) that is perfected under 30-9A-309 when it attaches;

27 (c) in property subject to a statute, regulation, or treaty described in 30-9A-311(1);

28 (d) in goods in possession of a bailee that is perfected under 30-9A-312(4)(a) or (4)(b);

1 (e) in certificated securities, documents, goods, or instruments that is perfected without filing or
2 possession under 30-9A-312(5), (6), or (7);

3 (f) in collateral in the secured party's possession under 30-9A-313;

4 (g) in a certificated security that is perfected by delivery of the security certificate to the secured
5 party under 30-9A-313;

6 (h) in a controllable account, controllable electronic record, controllable payment intangible,
7 deposit account, ~~electronic chattel paper,~~ electronic document, investment property, or letter-of-credit right that
8 is perfected by control under 30-9A-314;

9 (i) in chattel paper that is perfected by possession and control under ~~section 64~~ [section 63];

10 ~~(j)~~(j) in proceeds which is perfected under 30-9A-315; or

11 ~~(k)~~(k) that is perfected under 30-9A-316.

12 (3) If a secured party assigns a perfected security interest or agricultural lien, a filing under this
13 chapter is not required to continue the perfected status of the security interest against creditors of and
14 transferees from the original debtor."

15

16 **Section 60.** Section 30-9A-312, MCA, is amended to read:

17 **"30-9A-312. Perfection of security interests in chattel paper, controllable accounts,**
18 **controllable electronic records, controllable payment intangibles, deposit accounts, documents, goods**
19 **covered by documents, instruments, investment property, letter-of-credit rights, and money --**

20 **perfection by permissive filing -- temporary perfection without filing or transfer of possession. (1) A**

21 security interest in chattel paper, ~~negotiable documents,~~ controllable accounts, controllable electronic records,
22 controllable payment intangibles, instruments, or investment property, or negotiable documents may be
23 perfected by filing.

24 (2) Except as otherwise provided in 30-9A-315(3) and (4) for proceeds:

25 (a) a security interest in a deposit account may be perfected only by control under 30-9A-314;

26 (b) a security interest in a letter-of-credit right may be perfected only by control under 30-9A-314,
27 except as otherwise provided in 30-9A-308(4); ~~and~~ and

28 (c) a security interest in tangible money may be perfected only by the secured party's taking

1 possession under 30-9A-313; ~~and~~

2 ~~(d) a security interest in electronic money may be perfected only by control under 30-9A-314.~~

3 (3) While goods are in the possession of a bailee that has issued a negotiable document covering
4 the goods:

5 (a) a security interest in the goods may be perfected by perfecting a security interest in the
6 document; and

7 (b) a security interest perfected in the document has priority over any security interest that
8 becomes perfected in the goods by another method during that time.

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

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

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

13 (c) filing as to the goods.

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

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

21 (a) ultimate sale or exchange; or

22 (b) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise
23 dealing with them in a manner preliminary to their sale or exchange.

24 (7) A perfected security interest in a certificated security or instrument remains perfected for 20
25 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose
26 of:

27 (a) ultimate sale or exchange; or

28 (b) presentation, collection, enforcement, renewal, or registration of transfer.

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

3

4 **Section 61.** Section 30-9A-313, MCA, is amended to read:

5 **"30-9A-313. When possession by or delivery to secured party perfects security interest without**

6 **filing.** (1) Except as otherwise provided in subsection (2), a secured party may perfect a security interest in

7 ~~tangible negotiable documents, goods, instruments, negotiable tangible documents, or tangible money, or~~

8 ~~tangible chattel paper~~ by taking possession of the collateral. A secured party may perfect a security interest in

9 certificated securities by taking delivery of the certificated securities under 30-8-331.

10 (2) With respect to goods covered by a certificate of title issued by this state, a secured party may
11 perfect a security interest in the goods by taking possession of the goods only in the circumstances described
12 in 30-9A-316(4).

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

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

18 (b) the person takes possession of the collateral after having ~~authenticated~~ signed a record
19 acknowledging that it will hold possession of the collateral for the secured party's benefit.

20 (4) If perfection of a security interest depends upon possession of the collateral by a secured
21 party, perfection occurs ~~no~~ not earlier than the time the secured party takes possession and continues only
22 while the secured party retains possession.

23 (5) A security interest in a certificated security in registered form is perfected by delivery when
24 delivery of the certificated security occurs under 30-8-331 and remains perfected by delivery until the debtor
25 obtains possession of the security certificate.

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

28 (7) If a person acknowledges that it holds possession for the secured party's benefit:

1 (a) the acknowledgment is effective under 30-8-331(1) or subsection (3) of this section, even if the
2 acknowledgment violates the rights of a debtor; and

3 (b) unless the person otherwise agrees or law other than this chapter otherwise provides, the
4 person does not owe any duty to the secured party and is not required to confirm the acknowledgment to
5 another person.

6 (8) A secured party having possession of collateral does not relinquish possession by delivering
7 the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary
8 course of the debtor's business if the person was instructed before the delivery or is instructed
9 contemporaneously with the delivery:

10 (a) to hold possession of the collateral for the secured party's benefit; or

11 (b) to redeliver the collateral to the secured party.

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

16

17 **Section 62.** Section 30-9A-314, MCA, is amended to read:

18 **"30-9A-314. Perfection by control.** (1) A security interest in ~~investment property, a deposit account,~~
19 ~~a letter-of-credit right, or electronic chattel paper~~ controllable accounts, controllable electronic records,
20 controllable payment intangibles, deposit accounts, electronic documents, ~~electronic money,~~ investment
21 property, or letter-of-credit rights may be perfected by control of the collateral under 30-7-107, 30-9A-104, 30-
22 9A-105, ~~[section 46],~~ 30-9A-106, or 30-9A-107, or ~~[section 47]~~ [section 46].

23 (2) A security interest in ~~a deposit account, electronic chattel paper, a letter-of-credit right, or~~
24 ~~electronic document~~ controllable accounts, controllable electronic records, controllable payment intangibles,
25 deposit accounts, electronic documents, ~~electronic money,~~ or letter-of-credit rights is perfected by control under
26 30-7-107, 30-9A-104, 30-9A-105, ~~[section 46],~~ or 30-9A-107, or ~~[section 47]~~ [sections 46] ~~when not earlier than~~
27 the time the secured party obtains control and remains perfected by control only while the secured party retains
28 control.

1 (3) A security interest in investment property is perfected by control under 30-9A-106 from not
2 earlier than the time the secured party obtains control and remains perfected by control until:

3 (a) the secured party does not have control; and

4 (b) one of the following occurs:

5 (i) if the collateral is a certificated security, the debtor has or acquires possession of the security
6 certificate;

7 (ii) if the collateral is an uncertificated security, the issuer has registered or registers the debtor as
8 the registered owner; or

9 (iii) if the collateral is a security entitlement, the debtor is or becomes the entitlement holder."
10

11 **NEW SECTION. Section 63. Perfection by possession and control of chattel paper.** (1) A

12 secured party may perfect a security interest in chattel paper by taking possession of each authoritative
13 tangible copy of the record evidencing the chattel paper and obtaining control of each authoritative electronic
14 copy of the electronic record evidencing the chattel paper.

15 (2) A security interest is perfected under subsection (1) not earlier than the time the secured party
16 takes possession and obtains control and remains perfected under subsection (1) only while the secured party
17 retains possession and control.

18 (3) Section 30-9A-313(3) and (6) through (9) applies to perfection by possession of an
19 authoritative tangible copy of a record evidencing chattel paper.
20

21 **Section 64.** Section 30-9A-316, MCA, is amended to read:

22 **"30-9A-316. Effect of change in applicable law.** (1) A security interest perfected pursuant to the law
23 of the jurisdiction designated in 30-9A-301(1), ~~or 30-9A-305(3), section 58(4), or section 59(2) section 57(4),~~
24 or section 58(2) remains perfected until the earliest of:

25 (a) the time perfection would have ceased under the law of that jurisdiction;

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

27 (c) the expiration of 1 year after a transfer of collateral to a person that thereby becomes a debtor
28 and is located in another jurisdiction; or

1 (d) the expiration of 1 year after a new debtor located in another jurisdiction becomes bound under
2 30-9A-203(4).

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

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

10 (a) the collateral is located in one jurisdiction and subject to a security interest perfected under the
11 law of that jurisdiction;

12 (b) thereafter the collateral is brought into another jurisdiction; and

13 (c) upon entry into the other jurisdiction, the security interest is perfected under the law of the other
14 jurisdiction.

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

19 (5) A security interest described in subsection (4) becomes unperfected as against a purchaser of
20 the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value
21 if the applicable requirements for perfection under 30-9A-311(2) or 30-9A-313 are not satisfied before the
22 earlier of:

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

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

26 (6) A security interest in chattel paper, a controllable account, controllable electronic record,
27 controllable payment intangible, deposit account, letter-of-credit right, or investment property that is perfected
28 under the law of the chattel paper's jurisdiction, the controllable electronic record's jurisdiction, the bank's

1 jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction,
2 or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

3 (a) the time the security interest would have become unperfected under the law of that jurisdiction;
4 or

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

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

11 (8) The following rules apply to collateral to which a security interest attaches within 4 months after
12 the debtor changes its location to another jurisdiction:

13 (a) A financing statement filed before the change pursuant to the law of the jurisdiction designated
14 in 30-9A-301(1) or 30-9A-305(3) is effective to perfect a security interest in the collateral if the financing
15 statement would have been effective to perfect a security interest in the collateral had the debtor not changed
16 its location.

17 (b) If a security interest perfected by a financing statement that is effective under subsection (8)(a)
18 becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement
19 would have become ineffective under the law of the jurisdiction designated in 30-9A-301(1) or 30-9A-305(3) or
20 the expiration of the 4-month period, it remains perfected thereafter. If the security interest does not become
21 perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is
22 deemed never to have been perfected as against a purchaser of the collateral for value.

23 (9) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction
24 designated in 30-9A-301(1) or 30-9A-305(3) and the new debtor is located in another jurisdiction, the following
25 rules apply:

26 (a) The financing statement is effective to perfect a security interest in collateral acquired by the
27 new debtor before, and within 4 months after, the new debtor becomes bound under 30-9A-203(4), if the
28 financing statement would have been effective to perfect a security interest in the collateral had the collateral

1 been acquired by the original debtor.

2 (b) A security interest perfected by the financing statement and which becomes perfected under
3 the law of the other jurisdiction before the earlier of the time the financing statement would have become
4 ineffective under the law of the jurisdiction designated in 30-9A-301(1) or 30-9A-305(3) or the expiration of the
5 4-month period remains perfected thereafter. A security interest that is perfected by the financing statement but
6 which does not become perfected under the law of the other jurisdiction before the earlier time or event
7 becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for
8 value."

9

10 **Section 65.** Section 30-9A-317, MCA, is amended to read:

11 **"30-9A-317. Interests that take priority over or take free of security interest or agricultural lien.**

12 (1) A security interest or agricultural lien is subordinate to the rights of:

13 (a) a person entitled to priority under 30-9A-322; and

14 (b) except as otherwise provided in subsection (5), a person that becomes a lien creditor before
15 the earlier of the time:

16 (i) the security interest or agricultural lien is perfected; or

17 (ii) one of the conditions specified in 30-9A-203(2)(c) is met and a financing statement covering
18 the collateral is filed.

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

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

26 (4) A Subject to subsections (6) through (9), a licensee of a general intangible or a buyer, other
27 than a secured party, of collateral other than ~~tangible chattel paper, electronic money, tangible documents,~~
28 goods, instruments, tangible documents, or a certificated security takes free of a security interest if the licensee

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

2 (5) Except as otherwise provided in 30-9A-320 and 30-9A-321, if a person files a financing
3 statement with respect to a purchase-money security interest before or within 20 days after the debtor receives
4 delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor that
5 arise between the time the security interest attaches and the time of filing.

6 (6) A buyer, other than a secured party, of chattel paper takes free of a security interest if, without
7 knowledge of the security interest and before it is perfected, the buyer gives value and:

8 (a) receives delivery of each authoritative tangible copy of the record evidencing the chattel paper;
9 and

10 (b) if each authoritative electronic copy of the record evidencing the chattel paper can be subjected
11 to control under 30-9A-105 obtains control of each authoritative electronic copy.

12 (7) A buyer of an electronic document takes free of a security interest if, without knowledge of the
13 security interest and before it is perfected, the buyer gives value and, if each authoritative electronic copy of the
14 document can be subjected to control under 30-7-107 obtains control of each authoritative electronic copy.

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

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

21

22 **Section 66.** Section 30-9A-323, MCA, is amended to read:

23 **"30-9A-323. Future advances.** (1) Except as otherwise provided in subsection (3), for purposes of
24 determining the priority of a perfected security interest under 30-9A-322(1)(a), perfection of the security interest
25 dates from the time an advance is made to the extent that the security interest secures an advance that:

26 (a) is made while the security interest is perfected only:

27 (i) under 30-9A-309 when it attaches; or

28 (ii) temporarily under 30-9A-312(5), (6), or (7); and

1 chattel paper or an instrument ~~indicates~~indicate that it ~~the~~ chattel paper or instrument has been assigned to an
2 identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge
3 that the purchase violates the rights of the secured party."
4

5 **Section 70.** Section 30-9A-331, MCA, is amended to read:

6 **"30-9A-331. Priority of rights of purchasers of controllable accounts, controllable electronic**
7 **records, controllable payment intangibles, instruments, documents, instruments, and securities under**
8 **other chapters -- priority of interests in financial assets and security entitlements and protection**
9 **against assertion of claim under chapter 8 and ~~sections 93 through 99~~ sections 92 through 98.** (1)

10 This chapter does not limit the rights of a holder in due course of a negotiable instrument, a holder to whom a
11 negotiable document of title has been duly negotiated, ~~or a protected purchaser of a security, or a qualifying~~
12 purchaser of a controllable account, controllable electronic record, or controllable payment intangible. These
13 holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in
14 chapters 3, 7, and 8, ~~and sections 93 through 99~~ sections 92 through 98.

15 (2) This chapter does not limit the rights of or impose liability on a person to the extent that the
16 person is protected against the assertion of a claim under chapter 8 ~~or sections 93 through 99~~ sections 92
17 through 98.

18 (3) Filing under this chapter does not constitute notice of a claim or defense to the holders,
19 purchasers, or persons mentioned in subsections (1) and (2)."

20
21 **Section 71.** Section 30-9A-332, MCA, is amended to read:

22 **"30-9A-332. Transfer of money -- transfer of funds from deposit account.** (1) A transferee of
23 ~~tangible~~ money takes the money free of a security interest ~~unless the transferee acts if the transferee receives~~
24 possession of the money without acting in collusion with the debtor in violating the rights of the secured party.

25 (2) A transferee of funds from a deposit account takes the funds free of a security interest in the
26 deposit account ~~unless the transferee acts if the transferee receives the funds without acting~~ in collusion with
27 the debtor in violating the rights of the secured party.

28 ~~(3) A transferee of electronic money takes the money free of a security interest if the transferee~~

1 ~~obtains control of the money without acting in collusion with the debtor in violating the rights of the secured~~
2 ~~party."~~

3

4 **Section 72.** Section 30-9A-334, MCA, is amended to read:

5 **"30-9A-334. Priority of security interests in fixtures and crops.** (1) A security interest under this
6 chapter may be created in goods that are fixtures or may continue in goods that become fixtures. A security
7 interest does not exist under this chapter in ordinary building materials incorporated into an improvement on
8 land.

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

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

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

- 17 (a) the security interest is a purchase-money security interest;
- 18 (b) the interest of the encumbrancer or owner arises before the goods become fixtures; and
- 19 (c) the security interest is perfected by a fixture filing before the goods become fixtures or within 20
20 days thereafter.

21 (5) A perfected security interest in fixtures has priority over a conflicting interest of an
22 encumbrancer or owner of the real property if:

- 23 (a) the debtor has an interest of record in the real property or is in possession of the real property
24 and the security interest:
 - 25 (i) is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and
 - 26 (ii) the security interest has priority over any conflicting interest of a predecessor in title of the
27 encumbrancer or owner;
- 28 (b) before the goods become fixtures, the security interest is perfected by any method permitted by

1 transmitting utility also causes the effectiveness of the financing statement to lapse."

2

3 **Section 79.** Section 30-9A-601, MCA, is amended to read:

4 **"30-9A-601. Rights after default -- judicial enforcement -- consignor or buyer of accounts,**
5 **chattel paper, payment intangibles, or promissory notes.** (1) After default, a secured party has the rights
6 provided in this part and, except as otherwise provided in 30-9A-602, those provided by agreement of the
7 parties. A secured party:

8 (a) may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or
9 agricultural lien by any available judicial procedure; and

10 (b) if the collateral is documents, may proceed either as to the documents or as to the goods they
11 cover.

12 (2) A secured party in possession of collateral or control of collateral under 30-7-107, 30-9A-104,
13 30-9A-105, ~~section 46~~, 30-9A-106, ~~or~~ 30-9A-107, ~~or~~ ~~section 47~~ ~~section 46~~, has the rights and duties
14 provided in 30-9A-207.

15 (3) The rights under subsections (1) and (2) are cumulative and may be exercised simultaneously.

16 (4) Except as otherwise provided in 30-9A-605 and subsection (7) of this section, after default, a
17 debtor and an obligor have the rights provided in this part and by agreement of the parties.

18 (5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made
19 upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

20 (a) the date of perfection of the security interest or agricultural lien in the collateral;

21 (b) the date of filing a financing statement covering the collateral; or

22 (c) any date specified in a statute under which the agricultural lien was created.

23 (6) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by
24 judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter
25 hold the collateral free of any other requirements of this chapter.

26 (7) Except as otherwise provided in 30-9A-607(3), this part imposes no duties upon a secured
27 party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes."

28

1 incurred.

2 (4) A secured party is not liable to any person under 30-9A-625(3)(b) for its failure to comply with
3 30-9A-616.

4 (5) A secured party is not liable under 30-9A-625(3)(b) more than once with respect to any one
5 secured obligation.

6 (6) Subsections (1) and (2) do not apply to limit the liability of a secured party to a person if, at the
7 time the secured party obtains control of collateral that is a controllable account, controllable electronic record,
8 or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is
9 later:

10 (a) the person is a debtor or obligor; and

11 (b) the secured party knows that the information in subsection (2)(a)(i), (2)(a)(ii), or (2)(a)(iii)
12 relating to the person is not provided by the collateral, a record attached to or logically associated with the
13 collateral, or the system in which the collateral is recorded."

14
15 NEW SECTION. Section 92. Title. [Sections 93 through 99] [Sections 92 through 98] may be cited as
16 "Uniform Commercial Code--Controllable Electronic Records".

17
18 NEW SECTION. Section 93. Definitions. (1) As used in [sections 93 through 99] [sections 92
19 through 98], the following definitions apply:

20 (a) (i) "Controllable electronic record" means a record stored in an electronic medium that can be
21 subjected to control under ~~[section 97]~~ [section 96].

22 (ii) The term does not include a controllable account, a controllable payment intangible, a deposit
23 account, an electronic copy of a record evidencing chattel paper, an electronic document of title, ~~electronic~~
24 ~~money~~, investment property, ~~or~~ a transferable record, or an electronic record that is currently authorized or
25 adopted by a domestic or foreign government and is not a medium of exchange that was recorded and
26 transferable in a system that existed and operated for the medium of exchange before the medium of exchange
27 was authorized or adopted by a government.

28 (b) "Qualifying purchaser" means a purchaser of a controllable electronic record or an interest in a

1 controllable electronic record that obtains control of the controllable electronic record for value, in good faith,
2 and without notice of a claim of a property right in the controllable electronic record.

3 (c) "Transferable record" has the meaning provided for that term in:

4 (i) Section 201(a)(1) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C.
5 Section 7021(a)(1); or

6 (ii) 30-18-115(1).

7 (d) "Value" has the meaning provided in 30-3-303(1), as if references in that subsection to an
8 "instrument" were references to a controllable account, controllable electronic record, or controllable payment
9 intangible.

10 (2) The definitions in Title 30, chapter 9A, of "account debtor", "controllable account", "controllable
11 payment intangible", "chattel paper", "deposit account", "~~electronic money~~", and "investment property" apply to
12 ~~[sections 93 through 99] [sections 92 through 98]~~.

13 (3) Title 30, chapter 1, contains general definitions and principles of construction and interpretation
14 applicable throughout ~~[sections 93 through 99] [sections 92 through 98]~~.

15
16 **NEW SECTION. Section 94. Relation to Title 30, chapter 9A, and consumer laws.** (1) If there is
17 conflict between Title 30, chapter 9A, and ~~[sections 93 through 99] [sections 92 through 98]~~, Title 30, chapter
18 9A, governs.

19 (2) A transaction subject to ~~[sections 93 through 99] [sections 92 through 98]~~ is subject to any
20 applicable rule of law that establishes a different rule for consumers, Title 30, chapter 14, part 1, Title 31,
21 chapter 1, and Title 32, chapter 6, part 1.

22
23 **NEW SECTION. Section 95. Rights in controllable account, controllable electronic record, and**
24 **controllable payment intangible.** (1) This section applies to the acquisition and purchase of rights in a
25 controllable account or controllable payment intangible, including the rights and benefits under subsections (3),
26 (4), (5), (7), and (8) of a purchaser and qualifying purchaser, in the same manner this section applies to a
27 controllable electronic record.

28 (2) To determine whether a purchaser of a controllable account or a controllable payment

1 intangible is a qualifying purchaser, the purchaser obtains control of the account or payment intangible if it
2 obtains control of the controllable electronic record that evidences the account or payment intangible.

3 (3) Except as provided in this section, law other than ~~[sections 93 through 99]~~ [sections 92 through
4 98] determines whether a person acquires a right in a controllable electronic record and the right the person
5 acquires.

6 (4) A purchaser of a controllable electronic record acquires all rights in the controllable electronic
7 record that the transferor had or had power to transfer, except that a purchaser of a limited interest in a
8 controllable electronic record acquires rights only to the extent of the interest purchased.

9 (5) A qualifying purchaser acquires its rights in the controllable electronic record free of a claim of
10 a property right in the controllable electronic record.

11 (6) Except as provided in subsections (1) and (5) for a controllable account and a controllable
12 payment intangible or law other than ~~[sections 93 through 99]~~ [sections 92 through 98], a qualifying purchaser
13 takes a right to payment, right to performance, or other interest in property evidenced by the controllable
14 electronic record subject to a claim of a property right in the right to payment, right to performance, or other
15 interest in property.

16 (7) An action may not be asserted against a qualifying purchaser based on both a purchase by the
17 qualifying purchaser of a controllable electronic record and a claim of a property right in another controllable
18 electronic record, whether the action is framed in conversion, replevin, constructive trust, equitable lien, or other
19 theory.

20 (8) Filing of a financing statement under Title 30, chapter 9A, is not notice of a claim of a property
21 right in a controllable electronic record.

22

23 NEW SECTION. Section 96. Control of controllable electronic record. (1) A person has control of
24 a controllable electronic record if the electronic record, a record attached to or logically associated with the
25 electronic record, or a system in which the electronic record is recorded:

26 (a) gives the person:

27 (i) power to avail itself of substantially all the benefit from the electronic record; and

28 (ii) exclusive power, subject to subsection (2), to:

1 (A) prevent others from availing themselves of substantially all the benefit from the electronic

2 record; and

3 (B) transfer control of the electronic record to another person or cause another person to obtain

4 control of another controllable electronic record as a result of the transfer of the electronic record; and

5 (b) enables the person readily to identify itself in any way, including by name, identifying number,
6 cryptographic key, office, or account number, as having the powers specified in subsection (1)(a).

7 (2) Subject to subsection (3), a power is exclusive under subsection (1)(a)(ii)(A) and (1)(a)(ii)(B)

8 even if:

9 (a) the controllable electronic record, a record attached to or logically associated with the
10 electronic record, or a system in which the electronic record is recorded limits the use of the electronic record or
11 has a protocol programmed to cause a change, including a transfer or loss of control or a modification of
12 benefits afforded by the electronic record; or

13 (b) the power is shared with another person.

14 (3) A power of a person is not shared with another person under subsection (2)(b) and the
15 person's power is not exclusive if:

16 (a) the person can exercise the power only if the power also is exercised by the other person; and

17 (b) the other person:

18 (i) can exercise the power without exercise of the power by the person; or

19 (ii) is the transferor to the person of an interest in the controllable electronic record or a
20 controllable account or controllable payment intangible evidenced by the controllable electronic record.

21 (4) If a person has the powers specified in subsection (1)(a)(ii)(A) and (1)(a)(ii)(B), the powers are
22 presumed to be exclusive.

23 (5) A person has control of a controllable electronic record if another person, other than the
24 transferor to the person of an interest in the controllable electronic record or a controllable account or
25 controllable payment intangible evidenced by the controllable electronic record:

26 (a) has control of the electronic record and acknowledges that it has control on behalf of the
27 person; or

28 (b) obtains control of the electronic record after having acknowledged that it will obtain control of

1 the electronic record on behalf of the person.

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

4 (7) If a person acknowledges that it has or will obtain control on behalf of another person, unless
5 the person otherwise agrees or a law other than Title 30, chapter 9A, or ~~[sections 93 through 99]~~ [sections 92
6 through 98] otherwise provides, the person does not owe any duty to the other person and is not required to
7 confirm the acknowledgment to any other person.

8

9 **NEW SECTION. Section 97. Discharge of account debtor on controllable account or**

10 **controllable payment intangible.** (1) An account debtor on a controllable account or controllable payment
11 intangible may discharge its obligation by paying:

12 (a) the person having control of the controllable electronic record that evidences the controllable
13 account or controllable payment intangible; or

14 (b) except as provided in subsection (2), a person that formerly had control of the controllable
15 electronic record.

16 (2) Subject to subsection (4), the account debtor may not discharge its obligation by paying a
17 person that formerly had control of the controllable electronic record if the account debtor receives a notification
18 that:

19 (a) is signed by a person that formerly had control or the person to which control was transferred;

20 (b) reasonably identifies the controllable account or controllable payment intangible;

21 (c) notifies the account debtor that control of the controllable electronic record that evidences the
22 controllable account or controllable payment intangible was transferred;

23 (d) identifies the transferee, in any reasonable way, including by name, identifying number,
24 cryptographic key, office, or account number; and

25 (e) provides a commercially reasonable method by which the account debtor is to pay the
26 transferee.

27 (3) After receipt of a notification that complies with subsection (2), the account debtor may
28 discharge its obligation by paying in accordance with the notification and may not discharge the obligation by

1 paying a person that formerly had control.

2 (4) Subject to subsection (8), notification is ineffective under subsection (2):

3 (a) unless, before the notification is sent, the account debtor and the person that, at that time, had
4 control of the controllable electronic record that evidences the controllable account or controllable payment
5 intangible agree in a signed record to a commercially reasonable method by which a person may furnish
6 reasonable proof that control has been transferred;

7 (b) to the extent an agreement between the account debtor and seller of a payment intangible
8 limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law
9 other than ~~[sections 93 through 99]~~ [sections 92 through 98]; or

10 (c) at the option of the account debtor, if the notification notifies the account debtor to:

11 (i) divide a payment;

12 (ii) make less than the full amount of an installment or other periodic payment; or

13 (iii) pay any part of a payment by more than one method or to more than one person.

14 (5) Subject to subsection (8), if requested by the account debtor, the person giving the notification
15 under subsection (2) seasonably shall furnish reasonable proof, using the method in the agreement referred to
16 in subsection (4)(a), that control of the controllable electronic record has been transferred. Unless the person
17 complies with the request, the account debtor may discharge its obligation by paying a person that formerly had
18 control, even if the account debtor has received a notification under subsection (2).

19 (6) A person furnishes reasonable proof under subsection (5) that control has been transferred if
20 the person demonstrates, using the method in the agreement referred to in subsection (4)(a), that the
21 transferee has the power to:

22 (a) avail itself of substantially all the benefit from the controllable electronic record;

23 (b) prevent others from availing themselves of substantially all the benefit from the controllable
24 electronic record; and

25 (c) transfer the powers specified in subsections (6)(a) and (6)(b) to another person.

26 (7) Subject to subsection (8), an account debtor may not waive or vary its rights under subsections
27 (4)(a) and (5) or its option under subsection (4)(c).

28 (8) This section is subject to law other than ~~[sections 93 through 99]~~ [sections 92 through 98]

1 which establishes a different rule for an account debtor who is an individual and who incurred the obligation
2 primarily for personal, family, or household purposes.

3
4 **NEW SECTION. Section 98. Governing law.** (1) Except as provided in subsection (2), the local law
5 of a controllable electronic record's jurisdiction governs a matter covered by ~~[sections 93 through 99]~~ [sections
6 92 through 98].

7 (2) For a controllable electronic record that evidences a controllable account or controllable
8 payment intangible, the local law of the controllable electronic record's jurisdiction governs a matter covered by
9 ~~[section 98]~~ [section 97] unless an effective agreement determines that the local law of another jurisdiction
10 governs.

11 (3) The following rules determine a controllable electronic record's jurisdiction under this section:

12 (a) If the controllable electronic record, or a record attached to or logically associated with the
13 controllable electronic record and readily available for review, expressly provides that a particular jurisdiction is
14 the controllable electronic record's jurisdiction for purposes of this code or ~~[sections 93 through 99]~~ [sections 92
15 through 98], that jurisdiction is the controllable electronic record's jurisdiction.

16 (b) If subsection (3)(a) does not apply and the rules of the system in which the controllable
17 electronic record is recorded are readily available for review and expressly provide that a particular jurisdiction
18 is the controllable electronic record's jurisdiction for purposes of this code or ~~[sections 93 through 99]~~ [sections
19 92 through 98], that jurisdiction is the controllable electronic record's jurisdiction.

20 (c) If subsections (3)(a) and (3)(b) do not apply and the controllable electronic record, or a record
21 attached to or logically associated with the controllable electronic record and readily available for review,
22 expressly provides that the controllable electronic record is governed by the law of a particular jurisdiction, that
23 jurisdiction is the controllable electronic record's jurisdiction.

24 (d) If subsections (3)(a) through (3)(c) do not apply and the rules of the system in which the
25 controllable electronic record is recorded are readily available for review and expressly provide that the
26 controllable electronic record or the system is governed by the law of a particular jurisdiction, that jurisdiction is
27 the controllable electronic record's jurisdiction.

28 (e) If subsections (3)(a) through (3)(d) do not apply, the controllable electronic record's jurisdiction

1 is the District of Columbia.

2 (4)(a) If subsection (3)(e) applies and ~~[sections 93 through 99]~~ [sections 92 through 98] are not in
3 effect in the District of Columbia without material modification, the governing law for a matter covered by
4 ~~[sections 93 through 99]~~ [sections 92 through 98] is the law of the District of Columbia as though ~~[sections 93~~
5 ~~through 99]~~ [sections 92 through 98] were in effect in the District of Columbia without material modification.

6 (b) In this subsection, “[sections 93 through 99]” means Article 12 of Uniform Commercial Code
7 Amendments (2022).

8 (5) To the extent subsections (1) and (2) provide that the local law of the controllable electronic
9 record’s jurisdiction governs a matter covered by ~~[sections 93 through 99]~~ [sections 92 through 98], that law
10 governs even if the matter or a transaction to which the matter relates does not bear any relation to the
11 controllable electronic record’s jurisdiction.

12 (6) The rights acquired under ~~[section 96]~~ [section 95] by a purchaser or qualifying purchaser are
13 governed by the law applicable under this section at the time of purchase.

14

15 NEW SECTION. Section 99. Title. ~~[Sections 100 through 108]~~ [Sections 99 through 107] may be
16 cited as Transitional Provisions for Uniform Commercial Code Amendments (2022).

17

18 NEW SECTION. Section 100. Definitions. (1) In ~~[sections 100 through 108]~~ [sections 99 through
19 107], the following definitions apply:

20 (a) “Adjustment date” means July 1, 2025, or the date that is 1 year after [the effective date of this
21 act], whichever is later.

22 (b) ~~“[Sections 93 through 99]~~ “[Sections 92 through 98]” means Article 12 of the Uniform
23 Commercial Code.

24 (c) “Article 12 property” means a controllable account, controllable electronic record, or
25 controllable payment intangible.

26 (2) The following definitions in other articles of the Uniform Commercial Code apply to ~~[sections~~
27 ~~100 through 108]~~ [sections 99 through 107]:

28 (a) “Controllable account”. 30-9A-102.

1 (b) "Controllable electronic record". ~~[Section 94]~~ [Section 93].

2 (c) "Controllable payment intangible". 30-9A-102.

3 ~~(d) "Electronic money". 30-9A-102.~~

4 ~~(e)~~(d) "Financing statement". 30-9A-102.

5 (3) Title 30, chapter 1, contains general definitions and principles of construction and interpretation
6 applicable throughout ~~[sections 100 through 108]~~ [sections 99 through 107].

7
8 **NEW SECTION. Section 101. Saving clause.** Except as provided in ~~[sections 103 through 108]~~
9 [sections 102 through 107], a transaction validly entered into before [the effective date of this act] and the
10 rights, duties, and interests flowing from the transaction remain valid thereafter and may be terminated,
11 completed, consummated, or enforced as required or permitted by law other than the Uniform Commercial
12 Code or, if applicable, the Uniform Commercial Code, as though [this act] had not taken effect.

13
14 **NEW SECTION. Section 102. Saving Clause.** (1) Except as provided in ~~[sections 103~~
15 ~~through 108]~~ [sections 102 through 107], Title 30, chapter 9A, as amended by [this act] and ~~[sections 93~~
16 ~~through 99]~~ [sections 92 through 98] apply to a transaction, lien, or other interest in property, even if the
17 transaction, lien, or interest was entered into, created, or acquired before [the effective date of this act].

18 (2) Except as provided in subsection (3) and ~~[sections 104 through 108]~~ [sections 103 through
19 107]:

20 (a) a transaction, lien, or interest in property that was validly entered into, created, or transferred
21 before [the effective date of this act] and was not governed by the Uniform Commercial Code, but would be
22 subject to Title 30, chapter 9A, as amended by [this act] or ~~[sections 93 through 99]~~ [sections 92 through 98] if it
23 had been entered into, created, or transferred on or after [the effective date of this act], including the rights,
24 duties, and interests flowing from the transaction, lien, or interest, remains valid on and after [the effective date
25 of this act]; and

26 (b) the transaction, lien, or interest may be terminated, completed, consummated, and enforced as
27 required or permitted by [this act] or by the law that would apply if [this act] had not taken effect.

28 (3) [This act] does not affect an action, case, or proceeding commenced before [the effective date

1 of this act].

2

3 **NEW SECTION. Section 103. Security interest perfected before effective date.** (1) A security
4 interest that is enforceable and perfected immediately before [the effective date of this act] is a perfected
5 security interest under [this act] if, on [the effective date of this act], the requirements for enforceability and
6 perfection under [this act] are satisfied without further action.

7 (2) If a security interest is enforceable and perfected immediately before [the effective date of this
8 act], but the requirements for enforceability or perfection under [this act] are not satisfied on [the effective date
9 of this act], the security interest:

10 (a) is a perfected security interest until the earlier of the time perfection would have ceased under
11 the law in effect immediately before [the effective date of this act] or the adjustment date;

12 (b) remains enforceable thereafter only if the security interest satisfies the requirements for
13 enforceability under 30-9-203, as amended by [this act], before the adjustment date; and

14 (c) remains perfected thereafter only if the requirements for perfection under [this act] are satisfied
15 before the time specified in subsection (2)(a).

16

17 **NEW SECTION. Section 104. Security interest unperfected before effective date.** A security
18 interest that is enforceable immediately before [the effective date of this act] but is unperfected at that time:

19 (1) remains an enforceable security interest until the adjustment date;

20 (2) remains enforceable thereafter if the security interest becomes enforceable under 30-9A-203,
21 as amended by [this act], on [the effective date of this act] or before the adjustment date; and

22 (3) becomes perfected:

23 (a) without further action, on [the effective date of this act] if the requirements for perfection under
24 [this act] are satisfied before or at that time; or

25 (b) when the requirements for perfection are satisfied if the requirements are satisfied after that
26 time.

27

28 **NEW SECTION. Section 105. Effectiveness of actions taken before effective date.** (1) If action,

1 other than the filing of a financing statement, is taken before [the effective date of this act] and the action would
2 have resulted in perfection of the security interest had the security interest become enforceable before [the
3 effective date of this act], the action is effective to perfect a security interest that attaches under [this act] before
4 the adjustment date. An attached security interest becomes unperfected on the adjustment date unless the
5 security interest becomes a perfected security interest under [this act] before the adjustment date.

6 (2) The filing of a financing statement before [the effective date of this act] is effective to perfect a
7 security interest on [the effective date of this act] to the extent the filing would satisfy the requirements for
8 perfection under [this act].

9 (3) The taking of an action before [the effective date of this act] is sufficient for the enforceability of
10 a security interest on [the effective date of this act] if the action would satisfy the requirements for enforceability
11 under [this act].

12
13 **NEW SECTION. Section 106. Priority.** (1) Subject to subsections (2) and (3), [this act] determines
14 the priority of conflicting claims to collateral.

15 (2) Subject to subsection (3), if the priorities of claims to collateral were established before [the
16 effective date of this act], Title 30, chapter 9A, as in effect before [the effective date of this act] determines
17 priority.

18 (3) On the adjustment date, to the extent the priorities determined by Title 30, chapter 9A, as
19 amended by [this act], modify the priorities established before [the effective date of this act], the priorities of
20 claims to ~~[sections 93 through 99]~~ ~~[sections 92 through 98]~~ property ~~and electronic money~~ established before
21 [the effective date of this act] cease to apply.

22
23 **NEW SECTION. Section 107. Priority of claims when priority rules of Title 30, chapter 9A, do**
24 **not apply.** (1) Subject to subsections (2) and (3), ~~[sections 93 through 99]~~ ~~[sections 92 through 98]~~ determine
25 the priority of conflicting claims to ~~[sections 93 through 99]~~ ~~[sections 92 through 98]~~ property when the priority
26 rules of Title 30, chapter 9A, as amended by [this act] do not apply.

27 (2) Subject to subsection (3), when the priority rules of Title 30, chapter 9A, as amended by [this
28 act] do not apply and the priorities of claims to ~~[sections 93 through 99]~~ ~~[sections 92 through 98]~~ property were

1 established before [the effective date of this act], law other than ~~[sections 93 through 99]~~ [sections 92 through
2 98] determines priority.

3 (3) When the priority rules of Title 30, chapter 9A, as amended by [this act] do not apply, to the
4 extent the priorities determined by [this act] modify the priorities established before [the effective date of this
5 act], the priorities of claims to ~~[sections 93 through 99]~~ [sections 92 through 98] property established before [the
6 effective date of this act] cease to apply on the adjustment date.

7

8 **Section 108.** Section 30-18-115, MCA, is amended to read:

9 **"30-18-115. Transferable records.** (1) In this section, "transferable record" means an electronic
10 record that:

11 (a) would be a note under Title 30, chapter 3, or a document under Title 30, chapter 7, if the
12 electronic record were in writing; and

13 (b) the issuer of the electronic record expressly has agreed is a transferable record.

14 (2) A person has control of a transferable record if a system employed for evidencing the transfer
15 of interests in the transferable record reliably establishes that person as the person to which the transferable
16 record was issued or transferred.

17 (3) A system satisfies subsection (2), and a person is considered to have control of a transferable
18 record, if the transferable record is created, stored, and assigned in a manner that:

19 (a) a single authoritative copy of the transferable record exists that is unique, identifiable, and,
20 except as otherwise provided in subsections (3)(d) through (3)(f), unalterable;

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

22 (i) the person to which the transferable record was issued; or

23 (ii) if the authoritative copy indicates that the transferable record has been transferred, the person
24 to which the transferable record was most recently transferred;

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

27 (d) copies or revisions that add or change an identified assignee of the authoritative copy can be
28 made only with the consent of the person asserting control;

1 (e) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that
2 is not the authoritative copy; and

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

4 (4) Except as otherwise agreed, a person having control of a transferable record is the holder, as
5 defined in 30-1-201(2)(v) ~~(2)(w)~~ (2)(v), of the transferable record and has the same rights and defenses as a
6 holder of an equivalent record or writing under Title 30, chapters 1 through 9A, including, if the applicable
7 statutory requirements under 30-3-302(1), 30-7-501, or 30-9A-330 are satisfied, the rights and defenses of a
8 holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser,
9 respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights
10 under this subsection.

11 (5) Except as otherwise agreed, an obligor under a transferable record has the same rights and
12 defenses as an equivalent obligor under equivalent records or writings under Title 30, chapters 1 through 9A.

13 (6) If requested by a person against which enforcement is sought, the person seeking to enforce
14 the transferable record shall provide reasonable proof that the person is in control of the transferable record.
15 Proof may include access to the authoritative copy of the transferable record and related business records
16 sufficient to review the terms of the transferable record and to establish the identity of the person having control
17 of the transferable record."
18

19 **Section 109.** Section 45-6-315, MCA, is amended to read:

20 **"45-6-315. Defrauding creditors.** (1) A person commits the offense of defrauding secured creditors if
21 the person destroys, conceals, encumbers, transfers, removes from the state, or otherwise deals with property
22 subject to a security interest with the purpose to hinder enforcement of that interest.

23 (2) "Security interest" means an interest in personal property or fixtures as defined in the Uniform
24 Commercial Code, 30-1-201(2)(jj) ~~(2)(kk)~~ (2)(jj).

25 (3) A person convicted of the offense of defrauding secured creditors shall be fined not to exceed
26 \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

27 (4) A person who destroys, conceals, encumbers, transfers, removes from the state, or otherwise
28 deals with property subject to a security interest with the purpose of depriving the owner of the property or of

1 the proceeds and value from the property may be prosecuted under 45-6-301."

2

3 NEW SECTION. Section 110. Codification instruction. ~~(1) [Section 46] is intended to be codified as~~
4 ~~30-9A-105A and the provisions of Title 30, chapters 1 through 9A, apply to [section 46].~~

5 ~~(2)(1) [Section 47] [Section 46] is intended to be codified as 30-9A-107A, and the provisions of Title~~
6 ~~30, chapters 1 through 9A, apply to [section 47] [section 46].~~

7 ~~(3)(2) [Section 48] [Section 47] is intended to be codified as 30-9A-107B, and the provisions of Title~~
8 ~~30, chapters 1 through 9A, apply to [section 48] [section 47].~~

9 ~~(4)(3) [Section 58] [Section 57] is intended to be codified as 30-9A-306A, and the provisions of Title~~
10 ~~30, chapters 1 through 9A, apply to [section 58] [section 57].~~

11 ~~(5)(4) [Section 59] [Section 58] is intended to be codified as 30-9A-306B, and the provisions of Title~~
12 ~~30, chapters 1 through 9A, apply to [section 59] [section 58].~~

13 ~~(6)(5) [Section 64] [Section 63] is intended to be codified as 30-9A-314A, and the provisions of Title~~
14 ~~30, chapters 1 through 9A, apply to [section 64] [section 63].~~

15 ~~(7)(6) [Section 69] [Section 68] is intended to be codified as 30-9A-326A, and the provisions of Title~~
16 ~~30, chapters 1 through 9A, apply to [section 69] [section 68].~~

17 ~~(8)(7) [Sections 93 through 99] [Sections 92 through 98] are intended to be codified as Title 30,~~
18 ~~chapter 12A, and the provisions of Title 30, chapters 1 through 9A, apply to [sections 93 through 99] [sections~~
19 ~~92 through 98].~~

20 ~~(9)(8) [Sections 100 through 108] [Sections 99 through 107] are intended to be codified as a new part~~
21 ~~in Title 30, chapter 12A, and the provisions of Title 30, chapters 1 through 9A, apply to [sections 100 through~~
22 ~~108] [sections 99 through 107].~~

23 ~~(10)(9) [Sections 103 through 108] [Sections 102 through 107] are intended to be codified as a new~~
24 ~~part in Title 30, chapter 9A, and the provisions of Title 30, chapters 1 through 9A, apply to [sections 103 through~~
25 ~~108] [sections 102 through 107].~~

26 - END -