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HOUSE BILL 1964

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State of Washington

52nd Legislature

1991 Regular Session

By Representative Appelwick.

Read first time February 15, 1991. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to the uniform commercial code, amending RCW 62A.1-  
2 201, 62A.1-207, 62A.3-101, 62A.3-102, 62A.3-103, 62A.3-104, 62A.3-105,  
3 62A.3-106, 62A.3-107, 62A.3-108, 62A.3-109, 62A.3-110, 62A.3-111,  
4 62A.3-112, 62A.3-113, 62A.3-114, 62A.3-115, 62A.3-116, 62A.3-117,  
5 62A.3-118, 62A.3-119, 62A.3-201, 62A.3-202, 62A.3-203, 62A.3-204,  
6 62A.3-205, 62A.3-206, 62A.3-207, 62A.3-301, 62A.3-302, 62A.3-303,  
7 62A.3-304, 62A.3-305, 62A.3-306, 62A.3-307, 62A.3-401, 62A.3-402,  
8 62A.3-403, 62A.3-404, 62A.3-405, 62A.3-406, 62A.3-407, 62A.3-408,  
9 62A.3-409, 62A.3-410, 62A.3-411, 62A.3-412, 62A.3-413, 62A.3-414,  
10 62A.3-415, 62A.3-416, 62A.3-417, 62A.3-418, 62A.3-419, 62A.3-501,  
11 62A.3-502, 62A.3-503, 62A.3-504, 62A.3-505, 62A.3-601, 62A.3-602,  
12 62A.3-603, 62A.3-604, 62A.3-605, 62A.4-101, 62A.4-102, 62A.4-103,  
13 62A.4-104, 62A.4-105, 62A.4-106, 62A.4-107, 62A.4-108, 62A.4-201,  
14 62A.4-202, 62A.4-203, 62A.4-204, 62A.4-205, 62A.4-206, 62A.4-207,  
15 62A.4-208, 62A.4-209, 62A.4-210, 62A.4-211, 62A.4-212, 62A.4-213,  
16 62A.4-214, 62A.4-301, 62A.4-302, 62A.4-303, 62A.4-401, 62A.4-402,  
17 62A.4-403, 62A.4-405, 62A.4-406, 62A.4-407, 62A.4-501, 62A.4-502,

1 62A.4-503, and 62A.4-504; adding new sections to Title 62A RCW;  
2 creating a new section; and repealing RCW 62A.3-120, 62A.3-121, 62A.3-  
3 122, 62A.3-208, 62A.3-506, 62A.3-507, 62A.3-508, 62A.3-509, 62A.3-510,  
4 62A.3-511, 62A.3-512, 62A.3-515, 62A.3-520, 62A.3-522, 62A.3-525,  
5 62A.3-606, 62A.3-701, 62A.3-801, 62A.3-802, 62A.3-803, 62A.3-804,  
6 62A.3-805, and 62A.4-109.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 ARTICLE 1

9 GENERAL PROVISIONS

10 PART 2

11 GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

12 **Sec. 1.** RCW 62A.1-201 and 1990 c 228 s 1 are each amended to read  
13 as follows:

14 Subject to additional definitions contained in the subsequent  
15 Articles of this Title which are applicable to specific Articles or  
16 Parts thereof, and unless the context otherwise requires, in this  
17 Title:

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

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

22 (3) "Agreement" means the bargain of the parties in fact as found  
23 in their language or by implication from other circumstances including  
24 course of dealing or usage of trade or course of performance as  
25 provided in this Title (RCW 62A.1-205 and RCW 62A.2-208). Whether an  
26 agreement has legal consequences is determined by the provisions of

1 this Title, if applicable; otherwise by the law of contracts (RCW  
2 62A.1-103). (Compare "Contract".)

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

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

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

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

15 (8) "Burden of establishing" a fact means the burden of persuading  
16 the triers of fact that the existence of the fact is more probable than  
17 its non-existence.

18 (9) "Buyer in ordinary course of business" means a person who in  
19 good faith and without knowledge that the sale to him is in violation  
20 of the ownership rights or security interest of a third party in the  
21 goods buys in ordinary course from a person in the business of selling  
22 goods of that kind but does not include a pawnbroker. All persons who  
23 sell minerals or the like (including oil and gas) at wellhead or  
24 minehead shall be deemed to be persons in the business of selling goods  
25 of that kind. "Buying" may be for cash or by exchange of other  
26 property or on secured or unsecured credit and includes receiving goods  
27 or documents of title under a pre-existing contract for sale but does  
28 not include a transfer in bulk or as security for or in total or  
29 partial satisfaction of a money debt.

1 (10) "Conspicuous": A term or clause is conspicuous when it is so  
2 written that a reasonable person against whom it is to operate ought to  
3 have noticed it. A printed heading in capitals (as: NON-NEGOTIABLE  
4 BILL OF LADING) is conspicuous. Language in the body of a form is  
5 "conspicuous" if it is in larger or other contrasting type or color.  
6 But in a telegram any stated term is "conspicuous". Whether a term or  
7 clause is "conspicuous" or not is for decision by the court.

8 (11) "Contract" means the total legal obligation which results from  
9 the parties' agreement as affected by this Title and any other  
10 applicable rules of law. (Compare "Agreement".)

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

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

18 (14) "Delivery" with respect to instruments, documents of title,  
19 chattel paper, or certificated securities means voluntary transfer of  
20 possession.

21 (15) "Document of title" includes bill of lading, dock warrant,  
22 dock receipt, warehouse receipt or order for the delivery of goods, and  
23 also any other document which in the regular course of business or  
24 financing is treated as adequately evidencing that the person in  
25 possession of it is entitled to receive, hold and dispose of the  
26 document and the goods it covers. To be a document of title a document  
27 must purport to be issued by or addressed to a bailee and purport to  
28 cover goods in the bailee's possession which are either identified or  
29 are fungible portions of an identified mass.

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

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

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

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

10       (20) "Holder" with respect to ~~((an instrument, certificated~~  
11 ~~security, or document of title means the person in possession if (a) in~~  
12 ~~the case of an instrument, it is payable to bearer or to the order of~~  
13 ~~the person in possession, (b) in the case of a security, the person in~~  
14 ~~possession is the registered owner, or the security has been indorsed~~  
15 ~~to the person in possession by the registered owner, or the security is~~  
16 ~~in bearer form, or (c) in the case of a document of title, the goods~~  
17 ~~are deliverable to bearer or to the order of the person in possession))~~  
18 a negotiable instrument, means the person in possession if the  
19 instrument is payable to bearer or, in the case of an instrument  
20 payable to an identified person, if the identified person is in  
21 possession. "Holder" with respect to a document of title means the  
22 person in possession if the goods are deliverable to bearer or to the  
23 order of the person in possession.

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

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

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

5 (24) "Money" means a medium of exchange authorized or adopted by a  
6 domestic or foreign government (~~(or intergovernmental organization)~~)  
7 and includes a monetary unit of account established by an  
8 intergovernmental organization or by agreement between two or more  
9 nations.

10 (25) A person has "notice" of a fact when (a) he has actual  
11 knowledge of it; or

12 (b) he has received a notice or notification of it; or

13 (c) from all the facts and circumstances known to him at the time  
14 in question he has reason to know that it exists.

15 A person "knows" or has "knowledge" of a fact when he has actual  
16 knowledge of it. "Discover" or "learn" or a word or phrase of similar  
17 import refers to knowledge rather than to reason to know. The time and  
18 circumstances under which a notice or notification may cease to be  
19 effective are not determined by this Title.

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

24 (a) it comes to his attention; or

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

28 (27) Notice, knowledge or a notice or notification received by an  
29 organization is effective for a particular transaction from the time  
30 when it is brought to the attention of the individual conducting that

1 transaction, and in any event from the time when it would have been  
2 brought to his attention if the organization had exercised due  
3 diligence. An organization exercises due diligence if it maintains  
4 reasonable routines for communicating significant information to the  
5 person conducting the transaction and there is reasonable compliance  
6 with the routines. Due diligence does not require an individual acting  
7 for the organization to communicate information unless such  
8 communication is part of his regular duties or unless he has reason to  
9 know of the transaction and that the transaction would be materially  
10 affected by the information.

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

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

17 (30) "Person" includes an individual or an organization (See RCW  
18 62A.1-102).

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

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

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

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

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

1 (36) "Rights" includes remedies.

2 (37) "Security interest" means an interest in personal property or  
3 fixtures which secures payment or performance of an obligation. The  
4 retention or reservation of title by a seller of goods notwithstanding  
5 shipment or delivery to the buyer (RCW 62A.2-401) is limited in effect  
6 to a reservation of a "security interest". The term also includes any  
7 interest of a buyer of accounts or chattel paper which is subject to  
8 Article 9. The special property interest of a buyer of goods on  
9 identification of such goods to a contract for sale under RCW 62A.2-401  
10 is not a "security interest", but a buyer may also acquire a "security  
11 interest" by complying with Article 9. Unless a lease or consignment  
12 is intended as security, reservation of title thereunder is not a  
13 "security interest" but a consignment is in any event subject to the  
14 provisions on consignment sales (RCW 62A.2-326). Whether a lease is  
15 intended as security is to be determined by the facts of each case;  
16 however, (a) the inclusion of an option to purchase does not of itself  
17 make the lease one intended for security, and (b) an agreement that  
18 upon compliance with the terms of the lease the lessee shall become or  
19 has the option to become the owner of the property for no additional  
20 consideration or for a nominal consideration does make the lease one  
21 intended for security.

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



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

3 (40) "Surety" includes guarantor.

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

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

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

10 (44) "Value". Except as otherwise provided with respect to  
11 negotiable instruments and bank collections (RCW 62A.3-303, RCW 62A.4-  
12 208 and RCW 62A.4-209) a person gives "value" for rights if he acquires  
13 them

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

18 (b) as security for or in total or partial satisfaction of a  
19 preexisting claim; or

20 (c) by accepting delivery pursuant to a pre-existing contract for  
21 purchase; or

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

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

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

28 **Sec. 2.** RCW 62A.1-207 and 1965 ex.s. c 157 s 1-207 are each  
29 amended to read as follows:



1 reasonable certainty. It may be addressed to one or more such persons  
2 jointly or in the alternative but not in succession.

3 (c) A "promise" is an undertaking to pay and must be more than an  
4 acknowledgment of an obligation.

5 (d) "Secondary party" means a drawer or endorser.

6 (e) "Instrument" means a negotiable instrument.

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

9 "Acceptance."—RCW 62A.3-410.

10 "Accommodation party."—RCW 62A.3-415.

11 "Alteration."—RCW 62A.3-407.

12 "Certificate of deposit."—RCW 62A.3-104.

13 "Certification."—RCW 62A.3-411.

14 "Check."—RCW 62A.3-104.

15 "Definite time."—RCW 62A.3-109.

16 "Dishonor."—RCW 62A.3-507.

17 "Draft."—RCW 62A.3-104.

18 "Holder in due course."—RCW 62A.3-302.

19 "Negotiation."—RCW 62A.3-202.

20 "Note."—RCW 62A.3-104.

21 "Notice of dishonor."—RCW 62A.3-508.

22 "On demand."—RCW 62A.3-108.

23 "Presentment."—RCW 62A.3-504.

24 "Protest."—RCW 62A.3-509.

25 "Restrictive indorsement."—RCW 62A.3-205.

26 "Signature."—RCW 62A.3-401.

27 (3) The following definitions in other Articles apply to this  
28 Article:

29 "Account."—RCW 62A.4-104.

30 "Banking day."—RCW 62A.4-104.

1       ~~"Clearing house."—RCW 62A.4-104.~~  
2       ~~"Collecting bank."—RCW 62A.4-105.~~  
3       ~~"Customer."—RCW 62A.4-104.~~  
4       ~~"Depository bank."—RCW 62A.4-105.~~  
5       ~~"Documentary draft."—RCW 62A.4-104.~~  
6       ~~"Intermediary bank."—RCW 62A.4-105.~~  
7       ~~"Item."—RCW 62A.4-104.~~  
8       ~~"Midnight deadline."—RCW 62A.4-104.~~  
9       ~~"Payor bank."—RCW 62A.4-105.~~

10       ~~(4) In addition Article 1 contains general definitions and~~  
11 ~~principles of construction and interpretation applicable throughout~~  
12 ~~this Article.)~~

13       SUBJECT MATTER. (1) This Article applies to negotiable  
14 instruments. It does not apply to money, to payment orders governed by  
15 Article 4A (H-690/91), or to securities governed by Article 8.

16       (2) If there is conflict between this Article and Article 4 or 9,  
17 Articles 4 and 9 govern.

18       (3) Regulations of the Board of Governors of the Federal Reserve  
19 System and operating circulars of the Federal Reserve Banks supersede  
20 any inconsistent provision of this Article to the extent of the  
21 inconsistency.

22       **Sec. 5.** RCW 62A.3-103 and 1965 ex.s. c 157 s 3-103 are each  
23 amended to read as follows:

24       ~~((LIMITATIONS ON SCOPE OF ARTICLE.—(1) This Article does not~~  
25 ~~apply to money, documents of title or investment securities.~~

26       ~~(2) The provisions of this Article are subject to the provisions of~~  
27 ~~the Article on Bank Deposits and Collections (Article 4) and Secured~~  
28 ~~Transactions (Article 9).)~~

29       DEFINITIONS. (1) In this Article:

1       (a) "Acceptor" means a drawee who has accepted a draft.

2       (b) "Drawee" means a person ordered in a draft to make payment.

3       (c) "Drawer" means a person who signs or is identified in a draft  
4 as a person ordering payment.

5       (d) "Good faith" means honesty in fact and the observance of  
6 reasonable commercial standards of fair dealing.

7       (e) "Maker" means a person who signs or is identified in a note as  
8 a person undertaking to pay.

9       (f) "Order" means a written instruction to pay money signed by the  
10 person giving the instruction. The instruction may be addressed to any  
11 person, including the person giving the instruction, or to one or more  
12 persons jointly or in the alternative but not in succession. An  
13 authorization to pay is not an order unless the person authorized to  
14 pay is also instructed to pay.

15       (g) "Ordinary care" in the case of a person engaged in business  
16 means observance of reasonable commercial standards, prevailing in the  
17 area in which the person is located, with respect to the business in  
18 which the person is engaged. In the case of a bank that takes an  
19 instrument for processing for collection or payment by automated means,  
20 reasonable commercial standards do not require the bank to examine the  
21 instrument if the failure to examine does not violate the bank's  
22 prescribed procedures and the bank's procedures do not vary  
23 unreasonably from general banking usage not disapproved by this Article  
24 or Article 4.

25       (h) "Party" means a party to an instrument.

26       (i) "Promise" means a written undertaking to pay money signed by  
27 the person undertaking to pay. An acknowledgment of an obligation by  
28 the obligor is not a promise unless the obligor also undertakes to pay  
29 the obligation.

1        (j) "Prove" with respect to a fact means to meet the burden of  
2 establishing the fact (RCW 62A.1-201(8)).

3        (k) "Remitter" means a person who purchases an instrument from its  
4 issuer if the instrument is payable to an identified person other than  
5 the purchaser.

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

8	<u>"Acceptance"</u>	RCW 62A.3-409
9	<u>"Accommodated party"</u>	RCW 62A.3-419
10	<u>"Accommodation party"</u>	RCW 62A.3-419
11	<u>"Alteration"</u>	RCW 62A.3-407
12	<u>"Anomalous indorsement"</u>	RCW 62A.3-205
13	<u>"Blank indorsement"</u>	RCW 62A.3-205
14	<u>"Cashier's check"</u>	RCW 62A.3-104
15	<u>"Certificate of deposit"</u>	RCW 62A.3-104
16	<u>"Certified check"</u>	RCW 62A.3-409
17	<u>"Check"</u>	RCW 62A.3-104
18	<u>"Consideration"</u>	RCW 62A.3-303
19	<u>"Draft"</u>	RCW 62A.3-104
20	<u>"Holder in due course"</u>	RCW 62A.3-302
21	<u>"Incomplete instrument"</u>	RCW 62A.3-115
22	<u>"Indorsement"</u>	RCW 62A.3-204
23	<u>"Indorser"</u>	RCW 62A.3-204
24	<u>"Instrument"</u>	RCW 62A.3-104
25	<u>"Issue"</u>	RCW 62A.3-105
26	<u>"Issuer"</u>	RCW 62A.3-105
27	<u>"Negotiable instrument"</u>	RCW 62A.3-104
28	<u>"Negotiation"</u>	RCW 62A.3-201
29	<u>"Note"</u>	RCW 62A.3-104
30	<u>"Payable at a definite</u>	

1	<u>time"</u>	RCW 62A.3-108
2	<u>"Payable on demand"</u>	RCW 62A.3-108
3	<u>"Payable to bearer"</u>	RCW 62A.3-109
4	<u>"Payable to order"</u>	RCW 62A.3-109
5	<u>"Payment"</u>	RCW 62A.3-602
6	<u>"Person entitled to</u>	
7	<u>enforce"</u>	RCW 62A.3-301
8	<u>"Presentment"</u>	RCW 62A.3-501
9	<u>"Reacquisition"</u>	RCW 62A.3-207
10	<u>"Special indorsement"</u>	RCW 62A.3-205
11	<u>"Teller's check"</u>	RCW 62A.3-104
12	<u>"Transfer of instrument"</u>	RCW 62A.3-203
13	<u>"Traveler's check"</u>	RCW 62A.3-104
14	<u>"Value"</u>	RCW 62A.3-303

15 (3) The following definitions in other Articles apply to this  
16 Article:

17	<u>"Bank"</u>	RCW 62A.4-105
18	<u>"Banking day"</u>	RCW 62A.4-104
19	<u>"Clearing house"</u>	RCW 62A.4-104
20	<u>"Collecting bank"</u>	RCW 62A.4-105
21	<u>"Depositary bank"</u>	RCW 62A.4-105
22	<u>"Documentary draft"</u>	RCW 62A.4-104
23	<u>"Intermediary bank"</u>	RCW 62A.4-105
24	<u>"Item"</u>	RCW 62A.4-104
25	<u>"Payor bank"</u>	RCW 62A.4-105
26	<u>"Suspends payments"</u>	RCW 62A.4-104

27 (4) In addition, Article 1 contains general definitions and  
28 principles of construction and interpretation applicable throughout  
29 this Article.

1       **Sec. 6.** RCW 62A.3-104 and 1965 ex.s. c 157 s 3-104 are each  
2 amended to read as follows:

3       (~~(FORM OF NEGOTIABLE INSTRUMENTS; "DRAFT"; "CHECK"; "CERTIFICATE OF~~  
4 ~~DEPOSIT"; "NOTE".~~—(1) Any writing to be a negotiable instrument  
5 within this Article must

6       ~~(a) be signed by the maker or drawer; and~~

7       ~~(b) contain an unconditional promise or order to pay a sum certain~~  
8 ~~in money and no other promise, order, obligation or power given by the~~  
9 ~~maker or drawer except as authorized by this Article; and~~

10       ~~(c) be payable on demand or at a definite time; and~~

11       ~~(d) be payable to order or to bearer.~~

12       ~~(2) A writing which complies with the requirements of this section~~  
13 ~~is~~

14       ~~(a) a "draft" ("bill of exchange") if it is an order;~~

15       ~~(b) a "check" if it is a draft drawn on a bank and payable on~~  
16 ~~demand;~~

17       ~~(c) a "certificate of deposit" if it is an acknowledgment by a bank~~  
18 ~~of receipt of money with an engagement to repay it;~~

19       ~~(d) a "note" if it is a promise other than a certificate of~~  
20 ~~deposit.~~

21       ~~(3) As used in other Articles of this Title, and as the context may~~  
22 ~~require, the terms "draft", "check", "certificate of deposit" and~~  
23 ~~"note" may refer to instruments which are not negotiable within this~~  
24 ~~Article as well as to instruments which are so negotiable.))~~

25       NEGOTIABLE INSTRUMENT. (1) Except as provided in subsections (3)  
26 and (4), "negotiable instrument" means an unconditional promise or  
27 order to pay a fixed amount of money, with or without interest or other  
28 charges described in the promise or order, if it:

29       (a) Is payable to bearer or to order at the time it is issued or  
30 first comes into possession of a holder;



1       (b) Is payable on demand or at a definite time; and

2       (c) Does not state any other undertaking or instruction by the  
3 person promising or ordering payment to do any act in addition to the  
4 payment of money, but the promise or order may contain (i) an  
5 undertaking or power to give, maintain, or protect collateral to secure  
6 payment, (ii) an authorization or power to the holder to confess  
7 judgment or realize on or dispose of collateral, or (iii) a waiver of  
8 the benefit of any law intended for the advantage or protection of an  
9 obligor.

10       (2) "Instrument" means a negotiable instrument.

11       (3) An order that meets all of the requirements of subsection (1),  
12 except subsection (1)(a), and otherwise falls within the definition of  
13 "check" in subsection (6) is a negotiable instrument and a check.

14       (4) A promise or order other than a check is not an instrument if,  
15 at the time it is issued or first comes into possession of a holder, it  
16 contains a conspicuous statement, however expressed, to the effect that  
17 the promise or order is not negotiable or is not an instrument governed  
18 by this Article.

19       (5) An instrument is a "note" if it is a promise and is a "draft"  
20 if it is an order. If an instrument falls within the definition of  
21 both "note" and "draft," a person entitled to enforce the instrument  
22 may treat it as either.

23       (6) "Check" means (a) a draft, other than a documentary draft,  
24 payable on demand and drawn on a bank or (b) a cashier's check or  
25 teller's check. An instrument may be a check even though it is  
26 described on its face by another term, such as "money order."

27       (7) "Cashier's check" means a draft with respect to which the  
28 drawer and drawee are the same bank or branches of the same bank.

29       (8) "Teller's check" means a draft drawn by a bank (a) on another  
30 bank, or (b) payable at or through a bank.

1       (9) "Traveler's check" means an instrument that (a) is payable on  
2 demand, (b) is drawn on or payable at or through a bank, (c) is  
3 designated by the term "traveler's check" or by a substantially similar  
4 term, and (d) requires, as a condition to payment, a countersignature  
5 by a person whose specimen signature appears on the instrument.

6       (10) "Certificate of deposit" means an instrument containing an  
7 acknowledgment by a bank that a sum of money has been received by the  
8 bank and a promise by the bank to repay the sum of money. A  
9 certificate of deposit is a note of the bank.

10       **Sec. 7.** RCW 62A.3-105 and 1965 ex.s. c 157 s 3-105 are each  
11 amended to read as follows:

12       ~~((WHEN PROMISE OR ORDER UNCONDITIONAL.——(1) A promise or order~~  
13 ~~otherwise unconditional is not made conditional by the fact that the~~  
14 ~~instrument~~

15       ~~(a) is subject to implied or constructive conditions; or~~

16       ~~(b) states its consideration, whether performed or promised, or the~~  
17 ~~transaction which gave rise to the instrument, or that the promise or~~  
18 ~~order is made or the instrument matures in accordance with or "as per"~~  
19 ~~such transaction; or~~

20       ~~(c) refers to or states that it arises out of a separate agreement~~  
21 ~~or refers to a separate agreement for rights as to prepayment or~~  
22 ~~acceleration; or~~

23       ~~(d) states that it is drawn under a letter of credit; or~~

24       ~~(e) states that it is secured, whether by mortgage, reservation of~~  
25 ~~title or otherwise; or~~

26       ~~(f) indicates a particular account to be debited or any other fund~~  
27 ~~or source from which reimbursement is expected; or~~

1       ~~(g) is limited to payment out of a particular fund or the proceeds~~  
2 ~~of a particular source, if the instrument is issued by a government or~~  
3 ~~governmental agency or unit; or~~

4       ~~(h) is limited to payment out of the entire assets of a~~  
5 ~~partnership, unincorporated association, trust or estate by or on~~  
6 ~~behalf of which the instrument is issued.~~

7       ~~(2) A promise or order is not unconditional if the instrument~~

8       ~~(a) states that it is subject to or governed by any other~~  
9 ~~agreement; or~~

10       ~~(b) states that it is to be paid only out of a particular fund or~~  
11 ~~source except as provided in this section.)~~

12       ISSUE OF INSTRUMENT. (1) "Issue" means the first delivery of an  
13 instrument by the maker or drawer, whether to a holder or nonholder,  
14 for the purpose of giving rights on the instrument to any person.

15       (2) An unissued instrument, or an unissued incomplete instrument  
16 that is completed, is binding on the maker or drawer, but nonissuance  
17 is a defense. An instrument that is conditionally issued or is issued  
18 for a special purpose is binding on the maker or drawer, but failure of  
19 the condition or special purpose to be fulfilled is a defense.

20       (3) "Issuer" applies to issued and unissued instruments and means  
21 a maker or drawer of an instrument.

22       **Sec. 8.** RCW 62A.3-106 and 1989 c 13 s 1 are each amended to read  
23 as follows:

24       ~~((SUM CERTAIN DEFINITIONS. (1) The sum payable is a sum~~  
25 ~~certain even though it is to be paid~~

26       ~~(a) with stated interest or by stated installments; or~~

27       ~~(b) with stated different rates of interest before and after~~  
28 ~~default or a specified date; or~~

1       ~~(c) with a stated discount or addition if paid before or after the~~  
2 ~~date fixed for payment; or~~

3       ~~(d) with exchange or less exchange, whether at a fixed rate or at~~  
4 ~~the current rate; or~~

5       ~~(e) with costs of collection or an attorney's fee or both upon~~  
6 ~~default.~~

7       ~~(2) A rate of interest that cannot be calculated by looking only to~~  
8 ~~the instrument is a stated rate of interest in subsection (1) of this~~  
9 ~~section if the rate during any period is readily ascertainable by a~~  
10 ~~reference in the instrument to a published statute, regulation, rule of~~  
11 ~~court, generally accepted commercial or financial index, compendium of~~  
12 ~~interest rates, or announced or established rate of one or more named~~  
13 ~~financial institutions.~~

14       ~~(3) Graduated, variable, annuity or price-level adjusted payments~~  
15 ~~are stated installments in subsection (1) of this section if such~~  
16 ~~payments are provided for in the instrument.~~

17       ~~(4) Nothing in this section shall validate any term which is~~  
18 ~~otherwise illegal.))~~

19       UNCONDITIONAL PROMISE OR ORDER. (1) Except as provided in this  
20 section, for the purposes of RCW 62A.3-104(1), a promise or order is  
21 unconditional unless it states (a) an express condition to payment, (b)  
22 that the promise or order is subject to or governed by another writing,  
23 or (c) that rights or obligations with respect to the promise or order  
24 are stated in another writing. A reference to another writing does not  
25 of itself make the promise or order conditional.

26       (2) A promise or order is not made conditional (a) by a reference  
27 to another writing for a statement of rights with respect to  
28 collateral, prepayment, or acceleration, or (b) because payment is  
29 limited to resort to a particular fund or source.

1       (3) If a promise or order requires, as a condition to payment, a  
2 countersignature by a person whose specimen signature appears on the  
3 promise or order, the condition does not make the promise or order  
4 conditional for the purposes of RCW 62A.3-104(1). If the person whose  
5 specimen signature appears on an instrument fails to countersign the  
6 instrument, the failure to countersign is a defense to the obligation  
7 of the issuer, but the failure does not prevent a transferee of the  
8 instrument from becoming a holder of the instrument.

9       (4) If a promise or order at the time it is issued or first comes  
10 into possession of a holder contains a statement, required by  
11 applicable statutory or administrative law, to the effect that the  
12 rights of a holder or transferee are subject to claims or defenses that  
13 the issuer could assert against the original payee, the promise or  
14 order is not thereby made conditional for the purposes of RCW  
15 62A.3-104(1); but if the promise or order is an instrument, there  
16 cannot be a holder in due course of the instrument.

17       **Sec. 9.** RCW 62A.3-107 and 1965 ex.s. c 157 s 3-107 are each  
18 amended to read as follows:

19       ~~((MONEY.—(1) An instrument is payable in money if the medium of~~  
20 ~~exchange in which it is payable is money at the time the instrument is~~  
21 ~~made.— An instrument payable in "currency" or "current funds" is~~  
22 ~~payable in money.~~

23       ~~(2) A promise or order to pay a sum stated in a foreign currency is~~  
24 ~~for a sum certain in money and, unless a different medium of payment is~~  
25 ~~specified in the instrument, may be satisfied by payment of that number~~  
26 ~~of dollars which the stated foreign currency will purchase at the~~  
27 ~~buying sight rate for that currency on the day on which the instrument~~  
28 ~~is payable or, if payable on demand, on the day of demand.— If such an~~

1 ~~instrument specifies a foreign currency as the medium of payment the~~  
2 ~~instrument is payable in that currency.))~~

3 INSTRUMENT PAYABLE IN FOREIGN MONEY. Unless the instrument  
4 otherwise provides, an instrument that states the amount payable in  
5 foreign money may be paid in the foreign money or in an equivalent  
6 amount in dollars calculated by using the current bank-offered spot  
7 rate at the place of payment for the purchase of dollars on the day on  
8 which the instrument is paid.

9 **Sec. 10.** RCW 62A.3-108 and 1965 ex.s. c 157 s 3-108 are each  
10 amended to read as follows:

11 ~~((PAYABLE ON DEMAND. Instruments payable on demand include~~  
12 ~~those payable at sight or on presentation and those in which no time~~  
13 ~~for payment is stated.))~~

14 PAYABLE ON DEMAND OR AT DEFINITE TIME. (1) A promise or order is  
15 "payable on demand" if it (a) states that it is payable on demand or at  
16 sight, or otherwise indicates that it is payable at the will of the  
17 holder, or (b) does not state any time of payment.

18 (2) A promise or order is "payable at a definite time" if it is  
19 payable on elapse of a definite period of time after sight or  
20 acceptance or at a fixed date or dates or at a time or times readily  
21 ascertainable at the time the promise or order is issued, subject to  
22 rights of (a) prepayment, (b) acceleration, (c) extension at the option  
23 of the holder, or (d) extension to a further definite time at the  
24 option of the maker or acceptor or automatically upon or after a  
25 specified act or event.

26 (3) If an instrument, payable at a fixed date, is also payable upon  
27 demand made before the fixed date, the instrument is payable on demand  
28 until the fixed date and, if demand for payment is not made before that  
29 date, becomes payable at a definite time on the fixed date.

1       **Sec. 11.** RCW 62A.3-109 and 1989 c 13 s 2 are each amended to read  
2 as follows:

3       ~~((DEFINITE TIME. (1) An instrument is payable at a definite  
4 time if by its terms it is payable~~

5       ~~(a) on or before a stated date or at a fixed period after a stated  
6 date; or~~

7       ~~(b) at a fixed period after sight; or~~

8       ~~(c) at a definite time subject to any acceleration; or~~

9       ~~(d) at a definite time subject to extension at the option of the  
10 holder, or to extension to a further definite time at the option of the  
11 maker or acceptor or automatically upon or after a specified act or  
12 event; or~~

13       ~~(e) by variable, graduated, annuity or price level adjusted  
14 payments.~~

15       ~~(2) An instrument which by its terms is otherwise payable only upon  
16 an act or event uncertain as to time of occurrence is not payable at a  
17 definite time even though the act or event has occurred.))~~

18       PAYABLE TO BEARER OR TO ORDER. (1) A promise or order is payable  
19 to bearer if it:

20       (a) States that it is payable to bearer or to the order of bearer  
21 or otherwise indicates that the person in possession of the promise or  
22 order is entitled to payment;

23       (b) Does not state a payee; or

24       (c) States that it is payable to or to the order of cash or  
25 otherwise indicates that it is not payable to an identified person.

26       (2) A promise or order that is not payable to bearer is payable to  
27 order if it is payable (a) to the order of an identified person or (b)  
28 to an identified person or order. A promise or order that is payable  
29 to order is payable to the identified person.

1       (3) An instrument payable to bearer may become payable to an  
2 identified person if it is specially indorsed pursuant to RCW  
3 62A.3-205(1). An instrument payable to an identified person may become  
4 payable to bearer if it is indorsed in blank pursuant to RCW  
5 62A.3-205(2).

6       **Sec. 12.** RCW 62A.3-110 and 1965 ex.s. c 157 s 3-110 are each  
7 amended to read as follows:

8       ~~((PAYABLE TO ORDER.—(1) An instrument is payable to order when by~~  
9 ~~its terms it is payable to the order or assigns of any person therein~~  
10 ~~specified with reasonable certainty, or to him or his order, or when it~~  
11 ~~is conspicuously designated on its face as "exchange" or the like and~~  
12 ~~names a payee. It may be payable to the order of~~

13       ~~(a) the maker or drawer; or~~

14       ~~(b) the drawee; or~~

15       ~~(c) a payee who is not maker, drawer or drawee; or~~

16       ~~(d) two or more payees together or in the alternative; or~~

17       ~~(e) an estate, trust or fund, in which case it is payable to the~~  
18 ~~order of the representative of such estate, trust or fund or his~~  
19 ~~successors; or~~

20       ~~(f) an office, or an officer by his title as such in which case it~~  
21 ~~is payable to the principal but the incumbent of the office or his~~  
22 ~~successors may act as if he or they were the holder; or~~

23       ~~(g) a partnership or unincorporated association, in which case it~~  
24 ~~is payable to the partnership or association and may be indorsed or~~  
25 ~~transferred by any person thereto authorized.~~

26       ~~(2) An instrument not payable to order is not made so payable by~~  
27 ~~such words as "payable upon return of this instrument properly~~  
28 ~~indorsed."~~



1       ~~(3) An instrument made payable both to order and to bearer is~~  
2 ~~payable to order unless the bearer words are handwritten or~~  
3 ~~typewritten.)~~)

4       IDENTIFICATION OF PERSON TO WHOM INSTRUMENT IS PAYABLE. (1) The  
5 person to whom an instrument is initially payable is determined by the  
6 intent of the person, whether or not authorized, signing as, or in the  
7 name or behalf of, the issuer of the instrument. The instrument is  
8 payable to the person intended by the signer even if that person is  
9 identified in the instrument by a name or other identification that is  
10 not that of the intended person. If more than one person signs in the  
11 name or behalf of the issuer of an instrument and all the signers do  
12 not intend the same person as payee, the instrument is payable to any  
13 person intended by one or more of the signers.

14       (2) If the signature of the issuer of an instrument is made by  
15 automated means, such as a check-writing machine, the payee of the  
16 instrument is determined by the intent of the person who supplied the  
17 name or identification of the payee, whether or not authorized to do  
18 so.

19       (3) A person to whom an instrument is payable may be identified in  
20 any way, including by name, identifying number, office, or account  
21 number. For the purpose of determining the holder of an instrument,  
22 the following rules apply:

23       (a) If an instrument is payable to an account and the account is  
24 identified only by number, the instrument is payable to the person to  
25 whom the account is payable. If an instrument is payable to an account  
26 identified by number and by the name of a person, the instrument is  
27 payable to the named person, whether or not that person is the owner of  
28 the account identified by number.

29       (b) If an instrument is payable to:

1 (i) A trust, an estate, or a person described as trustee or  
2 representative of a trust or estate, the instrument is payable to the  
3 trustee, the representative, or a successor of either, whether or not  
4 the beneficiary or estate is also named;

5 (ii) A person described as agent or similar representative of a  
6 named or identified person, the instrument is payable to the  
7 represented person, the representative, or a successor of the  
8 representative;

9 (iii) A fund or organization that is not a legal entity, the  
10 instrument is payable to a representative of the members of the fund or  
11 organization; or

12 (iv) An office or to a person described as holding an office, the  
13 instrument is payable to the named person, the incumbent of the office,  
14 or a successor to the incumbent.

15 (4) If an instrument is payable to two or more persons  
16 alternatively, it is payable to any of them and may be negotiated,  
17 discharged, or enforced by any or all of them in possession of the  
18 instrument. If an instrument is payable to two or more persons not  
19 alternatively, it is payable to all of them and may be negotiated,  
20 discharged, or enforced only by all of them. If an instrument payable  
21 to two or more persons is ambiguous as to whether it is payable to the  
22 persons alternatively, the instrument is payable to the persons  
23 alternatively.

24 **Sec. 13.** RCW 62A.3-111 and 1965 ex.s. c 157 s 3-111 are each  
25 amended to read as follows:

26 ~~((PAYABLE TO BEARER.———An instrument is payable to bearer when~~  
27 ~~by its terms it is payable to~~

28 ~~(a) bearer or the order of bearer; or~~

29 ~~(b) a specified person or bearer; or~~

1       ~~(c) "cash" or the order of "cash", or any other indication which~~  
2 ~~does not purport to designate a specific payee.)~~)

3       PLACE OF PAYMENT. Except as otherwise provided for items in  
4 Article 4, an instrument is payable at the place of payment stated in  
5 the instrument. If no place of payment is stated, an instrument is  
6 payable at the address of the drawee or maker stated in the instrument.  
7 If no address is stated, the place of payment is the place of business  
8 of the drawee or maker. If a drawee or maker has more than one place  
9 of business, the place of payment is any place of business of the  
10 drawee or maker chosen by the person entitled to enforce the  
11 instrument. If the drawee or maker has no place of business, the place  
12 of payment is the residence of the drawee or maker.

13       **Sec. 14.** RCW 62A.3-112 and 1965 ex.s. c 157 s 3-112 are each  
14 amended to read as follows:

15       ~~((TERMS AND OMISSIONS NOT AFFECTING NEGOTIABILITY. (1) The~~  
16 ~~negotiability of an instrument is not affected by~~

17       ~~(a) the omission of a statement of any consideration or of the~~  
18 ~~place where the instrument is drawn or payable; or~~

19       ~~(b) a statement that collateral has been given to secure~~  
20 ~~obligations either on the instrument or otherwise of an obligor on the~~  
21 ~~instrument or that in case of default on those obligations the holder~~  
22 ~~may realize on or dispose of the collateral; or~~

23       ~~(c) a promise or power to maintain or protect collateral or to give~~  
24 ~~additional collateral; or~~

25       ~~(d) a term authorizing a confession of judgment on the instrument~~  
26 ~~if it is not paid when due; or~~

27       ~~(e) a term purporting to waive the benefit of any law intended for~~  
28 ~~the advantage or protection of any obligor; or~~

1       ~~(f) a term in a draft providing that the payee by indorsing or~~  
2 ~~cashing it acknowledges full satisfaction of an obligation of the~~  
3 ~~drawer; or~~

4       ~~(g) a statement in a draft drawn in a set of parts (RCW 62A.3-801)~~  
5 ~~to the effect that the order is effective only if no other part has~~  
6 ~~been honored.~~

7       ~~(2) Nothing in this section shall validate any term which is~~  
8 ~~otherwise illegal.))~~

9       INTEREST. (1) Unless otherwise provided in the instrument, (a) an  
10 instrument is not payable with interest, and (b) interest on an  
11 interest-bearing instrument is payable from the date of the instrument.

12       (2) Interest may be stated in an instrument as a fixed or variable  
13 amount of money or it may be expressed as a fixed or variable rate or  
14 rates. The amount or rate of interest may be stated or described in  
15 the instrument in any manner and may require reference to information  
16 not contained in the instrument. If an instrument provides for  
17 interest, but the amount of interest payable cannot be ascertained from  
18 the description, interest is payable at the judgment rate in effect at  
19 the place of payment of the instrument and at the time interest first  
20 accrues.

21       **Sec. 15.** RCW 62A.3-113 and 1965 ex.s. c 157 s 3-113 are each  
22 amended to read as follows:

23       ~~((SEAL.—— An instrument otherwise negotiable is within this~~  
24 ~~Article even though it is under a seal.))~~

25       DATE OF INSTRUMENT. (1) An instrument may be antedated or  
26 postdated. The date stated determines the time of payment if the  
27 instrument is payable at a fixed period after date. Except as provided  
28 in RCW 62A.4-401(3), an instrument payable on demand is not payable  
29 before the date of the instrument.

1        (2) If an instrument is undated, its date is the date of its issue  
2 or, in the case of an unissued instrument, the date it first comes into  
3 possession of a holder.

4        **Sec. 16.** RCW 62A.3-114 and 1965 ex.s. c 157 s 3-114 are each  
5 amended to read as follows:

6        ~~((DATE, ANTEDATING, POSTDATING.———(1) The negotiability of an~~  
7 ~~instrument is not affected by the fact that it is undated, antedated or~~  
8 ~~postdated.~~

9        ~~(2) Where an instrument is antedated or postdated the time when it~~  
10 ~~is payable is determined by the stated date if the instrument is~~  
11 ~~payable on demand or at a fixed period after date.~~

12        ~~(3) Where the instrument or any signature thereon is dated, the~~  
13 ~~date is presumed to be correct.))~~

14        CONTRADICTORY TERMS OF INSTRUMENT. If an instrument contains  
15 contradictory terms, typewritten terms prevail over printed terms,  
16 handwritten terms prevail over both, and words prevail over numbers.

17        **Sec. 17.** RCW 62A.3-115 and 1965 ex.s. c 157 s 3-115 are each  
18 amended to read as follows:

19        ~~((INCOMPLETE INSTRUMENTS.———(1) When a paper whose contents at~~  
20 ~~the time of signing show that it is intended to become an instrument is~~  
21 ~~signed while still incomplete in any necessary respect it cannot be~~  
22 ~~enforced until completed, but when it is completed in accordance with~~  
23 ~~authority given it is effective as completed.~~

24        ~~(2) If the completion is unauthorized the rules as to material~~  
25 ~~alteration apply (RCW 62A.3-407), even though the paper was not~~  
26 ~~delivered by the maker or drawer; but the burden of establishing that~~  
27 ~~any completion is unauthorized is on the party so asserting.))~~

1 INCOMPLETE INSTRUMENT. (1) "Incomplete instrument" means a signed  
2 writing, whether or not issued by the signer, the contents of which  
3 show at the time of signing that it is incomplete but that the signer  
4 intended it to be completed by the addition of words or numbers.

5 (2) Subject to subsection (3), if an incomplete instrument is an  
6 instrument under RCW 62A.3-104, it may be enforced according to its  
7 terms if it is not completed, or according to its terms as augmented by  
8 completion. If an incomplete instrument is not an instrument under RCW  
9 62A.3-104, but, after completion, the requirements of RCW 62A.3-104 are  
10 met, the instrument may be enforced according to its terms as augmented  
11 by completion.

12 (3) If words or numbers are added to an incomplete instrument  
13 without authority of the signer, there is an alteration of the  
14 incomplete instrument under RCW 62A.3-407.

15 (4) The burden of establishing that words or numbers were added to  
16 an incomplete instrument without authority of the signer is on the  
17 person asserting the lack of authority.

18 **Sec. 18.** RCW 62A.3-116 and 1965 ex.s. c 157 s 3-116 are each  
19 amended to read as follows:

20 ~~((INSTRUMENTS PAYABLE TO TWO OR MORE PERSONS.———An instrument~~  
21 ~~payable to the order of two or more persons~~

22 ~~(a) if in the alternative is payable to any one of them and may be~~  
23 ~~negotiated, discharged or enforced by any of them who has possession of~~  
24 ~~it;~~

25 ~~(b) if not in the alternative is payable to all of them and may be~~  
26 ~~negotiated, discharged or enforced only by all of them.))~~

27 JOINT AND SEVERAL LIABILITY; CONTRIBUTION. (1) Except as otherwise  
28 provided in the instrument, two or more persons who have the same  
29 liability on an instrument as makers, drawers, acceptors, indorsers who

1 indorse as joint payees, or anomalous indorsers are jointly and  
2 severally liable in the capacity in which they sign.

3 (2) Except as provided in RCW 62A.3-419(5) or by agreement of the  
4 affected parties, a party having joint and several liability who pays  
5 the instrument is entitled to receive from any party having the same  
6 joint and several liability contribution in accordance with applicable  
7 law.

8 (3) Discharge of one party having joint and several liability by a  
9 person entitled to enforce the instrument does not affect the right  
10 under subsection (2) of a party having the same joint and several  
11 liability to receive contribution from the party discharged.

12 **Sec. 19.** RCW 62A.3-117 and 1965 ex.s. c 157 s 3-117 are each  
13 amended to read as follows:

14 ~~((INSTRUMENTS PAYABLE WITH WORDS OF DESCRIPTION.—An instrument~~  
15 ~~made payable to a named person with the addition of words describing~~  
16 ~~him~~

17 ~~(a) as agent or officer of a specified person is payable to his~~  
18 ~~principal but the agent or officer may act as if he were the holder;~~

19 ~~(b) as any other fiduciary for a specified person or purpose is~~  
20 ~~payable to the payee and may be negotiated, discharged or enforced by~~  
21 ~~him;~~

22 ~~(c) in any other manner is payable to the payee unconditionally and~~  
23 ~~the additional words are without effect on subsequent parties.))~~

24 OTHER AGREEMENTS AFFECTING INSTRUMENT. Subject to applicable law  
25 regarding exclusion of proof of contemporaneous or previous agreements,  
26 the obligation of a party to an instrument to pay the instrument may be  
27 modified, supplemented, or nullified by a separate agreement of the  
28 obligor and a person entitled to enforce the instrument, if the  
29 instrument is issued or the obligation is incurred in reliance on the

1 agreement or as part of the same transaction giving rise to the  
2 agreement. To the extent an obligation is modified, supplemented, or  
3 nullified by an agreement under this section, the agreement is a  
4 defense to the obligation.

5       **Sec. 20.** RCW 62A.3-118 and 1965 ex.s. c 157 s 3-118 are each  
6 amended to read as follows:

7       (~~AMBIGUOUS TERMS AND RULES OF CONSTRUCTION.—The following rules~~  
8 ~~apply to every instrument:~~

9       ~~(a) Where there is doubt whether the instrument is a draft or a~~  
10 ~~note the holder may treat it as either. A draft drawn on the drawer is~~  
11 ~~effective as a note.~~

12       ~~(b) Handwritten terms control typewritten and printed terms, and~~  
13 ~~typewritten control printed.~~

14       ~~(c) Words control figures except that if the words are ambiguous~~  
15 ~~figures control.~~

16       ~~(d) Unless otherwise specified a provision for interest means~~  
17 ~~interest at the judgment rate at the place of payment from the date of~~  
18 ~~the instrument, or if it is undated from the date of issue.~~

19       ~~(e) Unless the instrument otherwise specifies two or more persons~~  
20 ~~who sign as maker, acceptor or drawer or indorser and as a part of the~~  
21 ~~same transaction are jointly and severally liable even though the~~  
22 ~~instrument contains such words as "I promise to pay."~~

23       ~~(f) Unless otherwise specified consent to extension authorizes a~~  
24 ~~single extension for not longer than the original period. A consent to~~  
25 ~~extension, expressed in the instrument, is binding on secondary parties~~  
26 ~~and accommodation makers. A holder may not exercise his option to~~  
27 ~~extend an instrument over the objection of a maker or acceptor or other~~  
28 ~~party who in accordance with RCW 62A.3-604 tenders full payment when~~  
29 ~~the instrument is due.))~~



1        STATUTE OF LIMITATIONS. (1) Except as provided in subsection (5),  
2 an action to enforce the obligation of a party to pay a note payable at  
3 a definite time must be commenced within six years after the due date  
4 or dates stated in the note or, if a due date is accelerated, within  
5 six years after the accelerated due date.

6        (2) Except as provided in subsection (4) or (5), if demand for  
7 payment is made to the maker of a note payable on demand, an action to  
8 enforce the obligation of a party to pay the note must be commenced  
9 within six years after the demand. If no demand for payment is made to  
10 the maker, an action to enforce the note is barred if neither principal  
11 nor interest on the note has been paid for a continuous period of ten  
12 years.

13        (3) Except as provided in subsection (4), an action to enforce the  
14 obligation of a party to an unaccepted draft to pay the draft must be  
15 commenced within three years after dishonor of the draft or ten years  
16 after the date of the draft, whichever period expires first.

17        (4) An action to enforce the obligation of the acceptor of a  
18 certified check or the issuer of a teller's check, cashier's check, or  
19 traveler's check must be commenced within three years after demand for  
20 payment is made to the acceptor or issuer, as the case may be.

21        (5) An action to enforce the obligation of a party to a certificate  
22 of deposit to pay the instrument must be commenced within six years  
23 after demand for payment is made to the maker, but if the instrument  
24 states a due date and the maker is not required to pay before that  
25 date, the six-year period begins when a demand for payment is in effect  
26 and the due date has passed.

27        (6) An action to enforce the obligation of a party to pay an  
28 accepted draft, other than a certified check, must be commenced (a)  
29 within six years after the due date or dates stated in the draft or  
30 acceptance if the obligation of the acceptor is payable at a definite

1 time, or (b) within six years after the date of the acceptance if the  
2 obligation of the acceptor is payable on demand.

3 (7) Unless governed by other law regarding claims for indemnity or  
4 contribution, an action (a) for conversion of an instrument, for money  
5 had and received, or like action based on conversion, (b) for breach of  
6 warranty, or (c) to enforce an obligation, duty, or right arising under  
7 this Article and not governed by this section must be commenced within  
8 three years after the cause of action accrues.

9 **Sec. 21.** RCW 62A.3-119 and 1965 ex.s. c 157 s 3-119 are each  
10 amended to read as follows:

11 ~~((OTHER WRITINGS AFFECTING INSTRUMENT. (1) As between the~~  
12 ~~obligor and his immediate obligee or any transferee the terms of an~~  
13 ~~instrument may be modified or affected by any other written agreement~~  
14 ~~executed as a part of the same transaction, except that a holder in due~~  
15 ~~course is not affected by any limitation of his rights arising out of~~  
16 ~~the separate written agreement if he had no notice of the limitation~~  
17 ~~when he took the instrument.~~

18 ~~(2) A separate agreement does not affect the negotiability of an~~  
19 ~~instrument.))~~

20 NOTICE OF RIGHT TO DEFEND ACTION. In an action for breach of an  
21 obligation for which a third person is answerable over pursuant to this  
22 Article or Article 4, the defendant may give the third person written  
23 notice of the litigation, and the person notified may then give similar  
24 notice to any other person who is answerable over. If the notice  
25 states (1) that the person notified may come in and defend and (2) that  
26 failure to do so will bind the person notified in an action later  
27 brought by the person giving the notice as to any determination of fact  
28 common to the two litigations, the person notified is so bound unless

1 after reasonable receipt of the notice the person notified does come in  
2 and defend.

3 PART 2

4 NEGOTIATION, TRANSFER, AND ((NEGOTIATION)) INDORSEMENT

5 **Sec. 22.** RCW 62A.3-201 and 1965 ex.s. c 157 s 3-201 are each  
6 amended to read as follows:

7 ~~((TRANSFER: RIGHT TO INDORSEMENT.—(1) Transfer of an instrument~~  
8 ~~vests in the transferee such rights as the transferor has therein,~~  
9 ~~except that a transferee who has himself been a party to any fraud or~~  
10 ~~illegality affecting the instrument or who as a prior holder had notice~~  
11 ~~of a defense or claim against it cannot improve his position by taking~~  
12 ~~from a later holder in due course.~~

13 ~~(2) A transfer of a security interest in an instrument vests the~~  
14 ~~foregoing rights in the transferee to the extent of the interest~~  
15 ~~transferred.~~

16 ~~(3) Unless otherwise agreed any transfer for value of an instrument~~  
17 ~~not then payable to bearer gives the transferee the specifically~~  
18 ~~enforceable right to have the unqualified indorsement of the~~  
19 ~~transferor. Negotiation takes effect only when the indorsement is made~~  
20 ~~and until that time there is no presumption that the transferee is the~~  
21 ~~owner.))~~

22 NEGOTIATION. (1) "Negotiation" means a transfer of possession,  
23 whether voluntary or involuntary, of an instrument by a person other  
24 than the issuer to a person who thereby becomes its holder.

25 (2) Except for negotiation by a remitter, if an instrument is  
26 payable to an identified person, negotiation requires transfer of  
27 possession of the instrument and its indorsement by the holder. If an

1 instrument is payable to bearer, it may be negotiated by transfer of  
2 possession alone.

3 **Sec. 23.** RCW 62A.3-202 and 1965 ex.s. c 157 s 3-202 are each  
4 amended to read as follows:

5 ~~((NEGOTIATION.—(1) Negotiation is the transfer of an instrument~~  
6 ~~in such form that the transferee becomes a holder. If the instrument~~  
7 ~~is payable to order it is negotiated by delivery with any necessary~~  
8 ~~indorsement; if payable to bearer it is negotiated by delivery.~~

9 ~~(2) An indorsement must be written by or on behalf of the holder~~  
10 ~~and on the instrument or on a paper so firmly affixed thereto as to~~  
11 ~~become a part thereof.~~

12 ~~(3) An indorsement is effective for negotiation only when it~~  
13 ~~conveys the entire instrument or any unpaid residue. If it purports to~~  
14 ~~be of less it operates only as a partial assignment.~~

15 ~~(4) Words of assignment, condition, waiver, guaranty, limitation or~~  
16 ~~disclaimer of liability and the like accompanying an indorsement do not~~  
17 ~~affect its character as an indorsement.))~~

18 NEGOTIATION SUBJECT TO RESCISSION. (1) Negotiation is effective  
19 even if obtained (a) from an infant, a corporation exceeding its  
20 powers, or a person without capacity, (b) by fraud, duress, or mistake,  
21 or (c) in breach of duty or as part of an illegal transaction.

22 (2) To the extent permitted by other law, negotiation may be  
23 rescinded or may be subject to other remedies, but those remedies may  
24 not be asserted against a subsequent holder in due course or a person  
25 paying the instrument in good faith and without knowledge of facts that  
26 are a basis for rescission or other remedy.

27 **Sec. 24.** RCW 62A.3-203 and 1965 ex.s. c 157 s 3-203 are each  
28 amended to read as follows:

1       (~~WRONG OR MISSPELLED NAME.~~——Where an instrument is made payable  
2 to a person under a misspelled name or one other than his own he may  
3 indorse in that name or his own or both; but signature in both names  
4 may be required by a person paying or giving value for the  
5 instrument.))

6       TRANSFER OF INSTRUMENT; RIGHTS ACQUIRED BY TRANSFER.     (1) An  
7 instrument is transferred when it is delivered by a person other than  
8 its issuer for the purpose of giving to the person receiving delivery  
9 the right to enforce the instrument.

10       (2) Transfer of an instrument, whether or not the transfer is a  
11 negotiation, vests in the transferee any right of the transferor to  
12 enforce the instrument, including any right as a holder in due course,  
13 but the transferee cannot acquire rights of a holder in due course by  
14 a transfer, directly or indirectly, from a holder in due course if the  
15 transferee engaged in fraud or illegality affecting the instrument.

16       (3) Unless otherwise agreed, if an instrument is transferred for  
17 value and the transferee does not become a holder because of lack of  
18 indorsement by the transferor, the transferee has a specifically  
19 enforceable right to the unqualified indorsement of the transferor, but  
20 negotiation of the instrument does not occur until the indorsement is  
21 made.

22       (4) If a transferor purports to transfer less than the entire  
23 instrument, negotiation of the instrument does not occur. The  
24 transferee obtains no rights under this Article and has only the rights  
25 of a partial assignee.

26       **Sec. 25.**   RCW 62A.3-204 and 1965 ex.s. c 157 s 3-204 are each  
27 amended to read as follows:

28       (~~SPECIAL INDORSEMENT; BLANK INDORSEMENT.~~——(1)——A——special  
29 indorsement specifies the person to whom or to whose order it makes the

1 instrument payable. Any instrument specially indorsed becomes payable  
2 to the order of the special indorsee and may be further negotiated only  
3 by his indorsement.

4 (2) An indorsement in blank specifies no particular indorsee and  
5 may consist of a mere signature. An instrument payable to order and  
6 indorsed in blank becomes payable to bearer and may be negotiated by  
7 delivery alone until specially indorsed.

8 (3) The holder may convert a blank indorsement into a special  
9 indorsement by writing over the signature of the indorser in blank any  
10 contract consistent with the character of the indorsement.))

11 INDORSEMENT. (1) "Indorsement" means a signature, other than that  
12 of a signer as maker, drawer, or acceptor, that alone or accompanied by  
13 other words is made on an instrument for the purpose of (a) negotiating  
14 the instrument, (b) restricting payment of the instrument, or (c)  
15 incurring indorser's liability on the instrument, but regardless of the  
16 intent of the signer, a signature and its accompanying words is an  
17 indorsement unless the accompanying words, terms of the instrument,  
18 place of the signature, or other circumstances unambiguously indicate  
19 that the signature was made for a purpose other than indorsement. For  
20 the purpose of determining whether a signature is made on an  
21 instrument, a paper affixed to the instrument is a part of the  
22 instrument.

23 (2) "Indorser" means a person who makes an indorsement.

24 (3) For the purpose of determining whether the transferee of an  
25 instrument is a holder, an indorsement that transfers a security  
26 interest in the instrument is effective as an unqualified indorsement  
27 of the instrument.

28 (4) If an instrument is payable to a holder under a name that is  
29 not the name of the holder, indorsement may be made by the holder in  
30 the name stated in the instrument or in the holder's name or both, but

1 signature in both names may be required by a person paying or taking  
2 the instrument for value or collection.

3 **Sec. 26.** RCW 62A.3-205 and 1965 ex.s. c 157 s 3-205 are each  
4 amended to read as follows:

5 ~~((RESTRICTIVE INDORSEMENTS.——An indorsement is restrictive which~~  
6 ~~either~~

7 ~~(a) is conditional; or~~

8 ~~(b) purports to prohibit further transfer of the instrument; or~~

9 ~~(c) includes the words "for collection", "for deposit", "pay any~~  
10 ~~bank", or like terms signifying a purpose of deposit or collection; or~~

11 ~~(d) otherwise states that it is for the benefit or use of the~~  
12 ~~indorser or of another person.))~~

13 SPECIAL INDORSEMENT; BLANK INDORSEMENT; ANOMALOUS INDORSEMENT. (1)

14 If an indorsement is made by the holder of an instrument, whether  
15 payable to an identified person or payable to bearer, and the  
16 indorsement identifies a person to whom it makes the instrument  
17 payable, it is a "special indorsement." When specially indorsed, an  
18 instrument becomes payable to the identified person and may be  
19 negotiated only by the indorsement of that person. The principles  
20 stated in RCW 62A.3-110 apply to special indorsements.

21 (2) If an indorsement is made by the holder of an instrument and it  
22 is not a special indorsement, it is a "blank indorsement." When  
23 indorsed in blank, an instrument becomes payable to bearer and may be  
24 negotiated by transfer of possession alone until specially indorsed.

25 (3) The holder may convert a blank indorsement that consists only  
26 of a signature into a special indorsement by writing, above the  
27 signature of the indorser, words identifying the person to whom the  
28 instrument is made payable.

1        (4) "Anomalous indorsement" means an indorsement made by a person  
2 who is not the holder of the instrument. An anomalous indorsement does  
3 not affect the manner in which the instrument may be negotiated.

4        **Sec. 27.** RCW 62A.3-206 and 1965 ex.s. c 157 s 3-206 are each  
5 amended to read as follows:

6        (~~EFFECT OF RESTRICTIVE INDORSEMENT. (1) No restrictive~~  
7 ~~indorsement prevents further transfer or negotiation of the instrument.~~

8        ~~(2) An intermediary bank, or a payor bank which is not the~~  
9 ~~depository bank, is neither given notice nor otherwise affected by a~~  
10 ~~restrictive indorsement of any person except the bank's immediate~~  
11 ~~transferor or the person presenting for payment.~~

12        ~~(3) Except for an intermediary bank, any transferee under an~~  
13 ~~indorsement which is conditional or includes the words "for~~  
14 ~~collection", "for deposit", "pay any bank", or like terms~~  
15 ~~(subparagraphs (a) and (c) of RCW 62A.3-205) must pay or apply any~~  
16 ~~value given by him for or on the security of the instrument~~  
17 ~~consistently with the indorsement and to the extent that he does so he~~  
18 ~~becomes a holder for value. In addition such transferee is a holder in~~  
19 ~~due course if he otherwise complies with the requirements of RCW 62A.3-~~  
20 ~~302 on what constitutes a holder in due course.~~

21        ~~(4) The first taker under an indorsement for the benefit of the~~  
22 ~~indorser or another person (subparagraph (d) of RCW 62A.3-205) must pay~~  
23 ~~or apply any value given by him for or on the security of the~~  
24 ~~instrument consistently with the indorsement and to the extent that he~~  
25 ~~does so he becomes a holder for value. In addition such taker is a~~  
26 ~~holder in due course if he otherwise complies with the requirements of~~  
27 ~~RCW 62A.3-302 on what constitutes a holder in due course. A later~~  
28 ~~holder for value is neither given notice nor otherwise affected by such~~  
29 ~~restrictive indorsement unless he has knowledge that a fiduciary or~~



1 other person has negotiated the instrument in any transaction for his  
2 own benefit or otherwise in breach of duty (subsection (2) of RCW  
3 62A.3-304).))

4 RESTRICTIVE INDORSEMENT. (1) An indorsement limiting payment to a  
5 particular person or otherwise prohibiting further transfer or  
6 negotiation of the instrument is not effective to prevent further  
7 transfer or negotiation of the instrument.

8 (2) An indorsement stating a condition to the right of the indorsee  
9 to receive payment does not affect the right of the indorsee to enforce  
10 the instrument. A person paying the instrument or taking it for value  
11 or collection may disregard the condition, and the rights and  
12 liabilities of that person are not affected by whether the condition  
13 has been fulfilled.

14 (3) If an instrument bears an indorsement (a) described in RCW  
15 62A.4-201(2), or (b) in blank or to a particular bank using the words  
16 "for deposit," "for collection," or other words indicating a purpose of  
17 having the instrument collected by a bank for the indorser or for a  
18 particular account, the following rules apply:

19 (i) A person, other than a bank, who purchases the instrument when  
20 so indorsed converts the instrument unless the amount paid for the  
21 instrument is received by the indorser or applied consistently with the  
22 indorsement.

23 (ii) A depositary bank that purchases the instrument or takes it  
24 for collection when so indorsed converts the instrument unless the  
25 amount paid by the bank with respect to the instrument is received by  
26 the indorser or applied consistently with the indorsement.

27 (iii) A payor bank that is also the depositary bank or that takes  
28 the instrument for immediate payment over the counter from a person  
29 other than a collecting bank converts the instrument unless the

1 proceeds of the instrument are received by the indorser or applied  
2 consistently with the indorsement.

3 (iv) Except as otherwise provided in subsection (3)(b)(iii), a  
4 payor bank or intermediary bank may disregard the indorsement and is  
5 not liable if the proceeds of the instrument are not received by the  
6 indorser or applied consistently with the indorsement.

7 (4) Except for an indorsement covered by subsection (3), if an  
8 instrument bears an indorsement using words to the effect that payment  
9 is to be made to the indorsee as agent, trustee, or other fiduciary for  
10 the benefit of the indorser or another person, the following rules  
11 apply:

12 (a) Unless there is notice of breach of fiduciary duty as provided  
13 in RCW 62A.3-307, a person who purchases the instrument from the  
14 indorsee or takes the instrument from the indorsee for collection or  
15 payment may pay the proceeds of payment or the value given for the  
16 instrument to the indorsee without regard to whether the indorsee  
17 violates a fiduciary duty to the indorser.

18 (b) A subsequent transferee of the instrument or person who pays  
19 the instrument is neither given notice nor otherwise affected by the  
20 restriction in the indorsement unless the transferee or payor knows  
21 that the fiduciary dealt with the instrument or its proceeds in breach  
22 of fiduciary duty.

23 (5) The presence on an instrument of an indorsement to which this  
24 section applies does not prevent a purchaser of the instrument from  
25 becoming a holder in due course of the instrument unless the purchaser  
26 is a converter under subsection (3) or has notice or knowledge of  
27 breach of fiduciary duty as stated in subsection (4).

28 (6) In an action to enforce the obligation of a party to pay the  
29 instrument, the obligor has a defense if payment would violate an

1 indorsement to which this section applies and the payment is not  
2 permitted by this section.

3 **Sec. 28.** RCW 62A.3-207 and 1965 ex.s. c 157 s 3-207 are each  
4 amended to read as follows:

5 ~~((NEGOTIATION EFFECTIVE ALTHOUGH IT MAY BE RESCINDED. — (1) —)~~  
6 ~~Negotiation is effective to transfer the instrument although the~~  
7 ~~negotiation is~~

8 ~~(a) made by an infant, a corporation exceeding its powers, or any~~  
9 ~~other person without capacity; or~~

10 ~~(b) obtained by fraud, duress or mistake of any kind; or~~

11 ~~(c) part of an illegal transaction; or~~

12 ~~(d) made in breach of duty.~~

13 ~~(2) Except as against a subsequent holder in due course such~~  
14 ~~negotiation is in an appropriate case subject to rescission, the~~  
15 ~~declaration of a constructive trust or any other remedy permitted by~~  
16 ~~law.))~~

17 REACQUISITION. Reacquisition of an instrument occurs if it is  
18 transferred to a former holder, by negotiation or otherwise. A former  
19 holder who reacquires the instrument may cancel indorsements made after  
20 the reacquirer first became a holder of the instrument. If the  
21 cancellation causes the instrument to be payable to the reacquirer or  
22 to bearer, the reacquirer may negotiate the instrument. An indorser  
23 whose indorsement is canceled is discharged, and the discharge is  
24 effective against any subsequent holder.

25 PART 3

26 ~~((RIGHTS OF A HOLDER))~~ ENFORCEMENT OF INSTRUMENTS

1       **Sec. 29.** RCW 62A.3-301 and 1965 ex.s. c 157 s 3-301 are each  
2 amended to read as follows:

3       (~~(RIGHTS OF A HOLDER. — The holder of an instrument whether or~~  
4 ~~not he is the owner may transfer or negotiate it and, except as~~  
5 ~~otherwise provided in RCW 62A.3-603 on payment or satisfaction,~~  
6 ~~discharge it or enforce payment in his own name.))~~)

7       PERSON ENTITLED TO ENFORCE INSTRUMENT. "Person entitled to  
8 enforce" an instrument means (1) the holder of the instrument, (2) a  
9 nonholder in possession of the instrument who has the rights of a  
10 holder, or (3) a person not in possession of the instrument who is  
11 entitled to enforce the instrument pursuant to RCW 62A.3-309 (section  
12 37 of this act) or 62A.3-418(4). A person may be a person entitled to  
13 enforce the instrument even though the person is not the owner of the  
14 instrument or is in wrongful possession of the instrument.

15       **Sec. 30.** RCW 62A.3-302 and 1965 ex.s. c 157 s 3-302 are each  
16 amended to read as follows:

17       HOLDER IN DUE COURSE.       (~~(1) A holder in due course is a holder~~  
18 ~~who takes the instrument~~

19       ~~(a) for value; and~~  
20       ~~(b) in good faith; and~~  
21       ~~(c) without notice that it is overdue or has been dishonored or of~~  
22 ~~any defense against or claim to it on the part of any person.~~

23       ~~(2) A payee may be a holder in due course.~~

24       ~~(3) A holder does not become a holder in due course of an~~  
25 ~~instrument:~~

26       ~~(a) by purchase of it at judicial sale or by taking it under legal~~  
27 ~~process; or~~

28       ~~(b) by acquiring it in taking over an estate; or~~

1       ~~(c) by purchasing it as part of a bulk transaction not in regular~~  
2 ~~course of business of the transferor.~~

3       ~~(4) A purchaser of a limited interest can be a holder in due course~~  
4 ~~only to the extent of the interest purchased.))~~

5       (1) Subject to subsection (3) and RCW 62A.3-106(4), "holder in due  
6 course" means the holder of an instrument if:

7       (a) The instrument when issued or negotiated to the holder does not  
8 bear such apparent evidence of forgery or alteration or is not  
9 otherwise so irregular or incomplete as to call into question its  
10 authenticity; and

11       (b) The holder took the instrument (i) for value, (ii) in good  
12 faith, (iii) without notice that the instrument is overdue or has been  
13 dishonored or that there is an uncured default with respect to payment  
14 of another instrument issued as part of the same series, (iv) without  
15 notice that the instrument contains an unauthorized signature or has  
16 been altered, (v) without notice of any claim to the instrument  
17 described in RCW 62A.3-306, and (vi) without notice that any party has  
18 a defense or claim in recoupment described in RCW 62A.3-305(1).

19       (2) Notice of discharge of a party, other than discharge in an  
20 insolvency proceeding, is not notice of a defense under subsection (1),  
21 but discharge is effective against a person who became a holder in due  
22 course with notice of the discharge. Public filing or recording of a  
23 document does not of itself constitute notice of a defense, claim in  
24 recoupment, or claim to the instrument.

25       (3) Except to the extent a transferor or predecessor in interest  
26 has rights as a holder in due course, a person does not acquire rights  
27 of a holder in due course of an instrument taken (a) by legal process  
28 or by purchase in an execution, bankruptcy, or creditor's sale or  
29 similar proceeding, (b) by purchase as part of a bulk transaction not

1 in ordinary course of business of the transferor, or (c) as the  
2 successor in interest to an estate or other organization.

3 (4) If, under RCW 62A.3-303(1)(a), the promise of performance that  
4 is the consideration for an instrument has been partially performed,  
5 the holder may assert rights as a holder in due course of the  
6 instrument only to the fraction of the amount payable under the  
7 instrument equal to the value of the partial performance divided by the  
8 value of the promised performance.

9 (5) If (a) the person entitled to enforce an instrument has only a  
10 security interest in the instrument and (b) the person obliged to pay  
11 the instrument has a defense, claim in recoupment, or claim to the  
12 instrument that may be asserted against the person who granted the  
13 security interest, the person entitled to enforce the instrument may  
14 assert rights as a holder in due course only to an amount payable under  
15 the instrument which, at the time of enforcement of the instrument,  
16 does not exceed the amount of the unpaid obligation secured.

17 (6) To be effective, notice must be received at a time and in a  
18 manner that gives a reasonable opportunity to act on it.

19 (7) This section is subject to any law limiting status as a holder  
20 in due course in particular classes of transactions.

21 **Sec. 31.** RCW 62A.3-303 and 1965 ex.s. c 157 s 3-303 are each  
22 amended to read as follows:

23 ~~((TAKING FOR VALUE.— A holder takes the instrument for value~~  
24 ~~(a) to the extent that the agreed consideration has been performed~~  
25 ~~or that he acquires a security interest in or a lien on the instrument~~  
26 ~~otherwise than by legal process; or~~

27 ~~(b) when he takes the instrument in payment of or as security for~~  
28 ~~an antecedent claim against any person whether or not the claim is due;~~  
29 ~~or~~

1       ~~(c) when he gives a negotiable instrument for it or makes an~~  
2 ~~irrevocable commitment to a third person.))~~

3       VALUE AND CONSIDERATION. (1) An instrument is issued or  
4 transferred for value if:

5       (a) The instrument is issued or transferred for a promise of  
6 performance, to the extent the promise has been performed;

7       (b) The transferee acquires a security interest or other lien in  
8 the instrument other than a lien obtained by judicial proceeding;

9       (c) The instrument is issued or transferred as payment of, or as  
10 security for, an antecedent claim against any person, whether or not  
11 the claim is due;

12       (d) The instrument is issued or transferred in exchange for a  
13 negotiable instrument; or

14       (e) The instrument is issued or transferred in exchange for the  
15 incurring of an irrevocable obligation to a third party by the person  
16 taking the instrument.

17       (2) "Consideration" means any consideration sufficient to support  
18 a simple contract. The drawer or maker of an instrument has a defense  
19 if the instrument is issued without consideration. If an instrument is  
20 issued for a promise of performance, the issuer has a defense to the  
21 extent performance of the promise is due and the promise has not been  
22 performed. If an instrument is issued for value as stated in  
23 subsection (1), the instrument is also issued for consideration.

24       **Sec. 32.** RCW 62A.3-304 and 1965 ex.s. c 157 s 3-304 are each  
25 amended to read as follows:

26       ~~((NOTICE TO PURCHASER. (1) The purchaser has notice of a claim~~  
27 ~~or defense if~~

28       ~~(a) the instrument is so incomplete, bears such visible evidence of~~  
29 ~~forgery or alteration, or is otherwise so irregular as to call into~~

1 ~~question its validity, terms or ownership or to create an ambiguity as~~  
2 ~~to the party to pay; or~~

3 ~~(b) the purchaser has notice that the obligation of any party is~~  
4 ~~voidable in whole or in part, or that all parties have been discharged.~~

5 ~~(2) The purchaser has notice of a claim against the instrument when~~  
6 ~~he has knowledge that a fiduciary has negotiated the instrument in~~  
7 ~~payment of or as security for his own debt or in any transaction for~~  
8 ~~his own benefit or otherwise in breach of duty.~~

9 ~~(3) The purchaser has notice that an instrument is overdue if he~~  
10 ~~has reason to know~~

11 ~~(a) that any part of the principal amount is overdue or that there~~  
12 ~~is an uncured default in payment of another instrument of the same~~  
13 ~~series; or~~

14 ~~(b) that acceleration of the instrument has been made; or~~

15 ~~(c) that he is taking a demand instrument after demand has been~~  
16 ~~made or more than a reasonable length of time after its issue. A~~  
17 ~~reasonable time for a check drawn and payable within the states and~~  
18 ~~territories of the United States and the District of Columbia is~~  
19 ~~presumed to be thirty days.~~

20 ~~(4) Knowledge of the following facts does not of itself give the~~  
21 ~~purchaser notice of a defense or claim~~

22 ~~(a) that the instrument is antedated or postdated;~~

23 ~~(b) that it was issued or negotiated in return for an executory~~  
24 ~~promise or accompanied by a separate agreement, unless the purchaser~~  
25 ~~has notice that a defense or claim has arisen from the terms thereof;~~

26 ~~(c) that any party has signed for accommodation;~~

27 ~~(d) that an incomplete instrument has been completed, unless the~~  
28 ~~purchaser has notice of any improper completion;~~

29 ~~(e) that any person negotiating the instrument is or was a~~  
30 ~~fiduciary;~~



1       ~~(f) that there has been default in payment of interest on the~~  
2 ~~instrument or in payment of any other instrument, except one of the~~  
3 ~~same series.~~

4       ~~(5) The filing or recording of a document does not of itself~~  
5 ~~constitute notice within the provisions of this Article to a person who~~  
6 ~~would otherwise be a holder in due course.~~

7       ~~(6) To be effective notice must be received at such time and in~~  
8 ~~such manner as to give a reasonable opportunity to act on it.))~~

9       OVERDUE INSTRUMENT. (1) An instrument payable on demand becomes  
10 overdue at the earliest of the following times:

11       (a) On the day after the day demand for payment is duly made;

12       (b) If the instrument is a check, 90 days after its date; or

13       (c) If the instrument is not a check, when the instrument has been  
14 outstanding for a period of time after its date which is unreasonably  
15 long under the circumstances of the particular case in light of the  
16 nature of the instrument and usage of the trade.

17       (2) With respect to an instrument payable at a definite time the  
18 following rules apply:

19       (a) If the principal is payable in installments and a due date has  
20 not been accelerated, the instrument becomes overdue upon default under  
21 the instrument for nonpayment of an installment, and the instrument  
22 remains overdue until the default is cured.

23       (b) If the principal is not payable in installments and the due  
24 date has not been accelerated, the instrument becomes overdue on the  
25 day after the due date.

26       (c) If a due date with respect to principal has been accelerated,  
27 the instrument becomes overdue on the day after the accelerated due  
28 date.

1 (3) Unless the due date of principal has been accelerated, an  
2 instrument does not become overdue if there is default in payment of  
3 interest but no default in payment of principal.

4 **Sec. 33.** RCW 62A.3-305 and 1965 ex.s. c 157 s 3-305 are each  
5 amended to read as follows:

6 ~~((RIGHTS OF A HOLDER IN DUE COURSE. To the extent that a~~  
7 ~~holder is a holder in due course he takes the instrument free from~~

8 ~~(1) all claims to it on the part of any person; and~~

9 ~~(2) all defenses of any party to the instrument with whom the~~  
10 ~~holder has not dealt except~~

11 ~~(a) infancy, to the extent that it is a defense to a simple~~  
12 ~~contract; and~~

13 ~~(b) such other incapacity, or duress, or illegality of the~~  
14 ~~transaction, as renders the obligation of the party a nullity; and~~

15 ~~(c) such misrepresentation as has induced the party to sign the~~  
16 ~~instrument with neither knowledge nor reasonable opportunity to obtain~~  
17 ~~knowledge of its character or its essential terms; and~~

18 ~~(d) discharge in insolvency proceedings; and~~

19 ~~(e) any other discharge of which the holder has notice when he~~  
20 ~~takes the instrument.))~~

21 DEFENSES AND CLAIMS IN RECOUPMENT. (1) Except as stated in  
22 subsection (2), the right to enforce the obligation of a party to pay  
23 an instrument is subject to the following:

24 (a) A defense of the obligor based on (i) infancy of the obligor to  
25 the extent it is a defense to a simple contract, (ii) duress, lack of  
26 legal capacity, or illegality of the transaction which, under other  
27 law, nullifies the obligation of the obligor, (iii) fraud that induced  
28 the obligor to sign the instrument with neither knowledge nor

1 reasonable opportunity to learn of its character or its essential  
2 terms, or (iv) discharge of the obligor in insolvency proceedings;

3 (b) A defense of the obligor stated in another section of this  
4 Article or a defense of the obligor that would be available if the  
5 person entitled to enforce the instrument were enforcing a right to  
6 payment under a simple contract; and

7 (c) A claim in recoupment of the obligor against the original payee  
8 of the instrument if the claim arose from the transaction that gave  
9 rise to the instrument; but the claim of the obligor may be asserted  
10 against a transferee of the instrument only to reduce the amount owing  
11 on the instrument at the time the action is brought.

12 (2) The right of a holder in due course to enforce the obligation  
13 of a party to pay the instrument is subject to defenses of the obligor  
14 stated in subsection (1)(a), but is not subject to defenses of the  
15 obligor stated in subsection (1)(b) or claims in recoupment stated in  
16 subsection (1)(c) against a person other than the holder.

17 (3) Except as stated in subsection (4), in an action to enforce the  
18 obligation of a party to pay the instrument, the obligor may not assert  
19 against the person entitled to enforce the instrument a defense, claim  
20 in recoupment, or claim to the instrument (RCW 62A.3-306) of another  
21 person, but the other person's claim to the instrument may be asserted  
22 by the obligor if the other person is joined in the action and  
23 personally asserts the claim against the person entitled to enforce the  
24 instrument. An obligor is not obliged to pay the instrument if the  
25 person seeking enforcement of the instrument does not have rights of a  
26 holder in due course and the obligor proves that the instrument is a  
27 lost or stolen instrument.

28 (4) In an action to enforce the obligation of an accommodation  
29 party to pay an instrument, the accommodation party may assert against  
30 the person entitled to enforce the instrument any defense or claim in

1 recoupment under subsection (1) that the accommodated party could  
2 assert against the person entitled to enforce the instrument, except  
3 the defenses of discharge in insolvency proceedings, infancy, and lack  
4 of legal capacity.

5 **Sec. 34.** RCW 62A.3-306 and 1965 ex.s. c 157 s 3-306 are each  
6 amended to read as follows:

7 ~~((RIGHTS OF ONE NOT HOLDER IN DUE COURSE. Unless he has the~~  
8 ~~rights of a holder in due course any person takes the instrument~~  
9 ~~subject to~~

10 ~~(a) all valid claims to it on the part of any person; and~~

11 ~~(b) all defenses of any party which would be available in an action~~  
12 ~~on a simple contract; and~~

13 ~~(c) the defenses of want or failure of consideration, non-~~  
14 ~~performance of any condition precedent, non-delivery, or delivery for~~  
15 ~~a special purpose (RCW 62A.3-408); and~~

16 ~~(d) the defense that he or a person through whom he holds the~~  
17 ~~instrument acquired it by theft, or that payment or satisfaction to~~  
18 ~~such holder would be inconsistent with the terms of a restrictive~~  
19 ~~indorsement. The claim of any third person to the instrument is not~~  
20 ~~otherwise available as a defense to any party liable thereon unless the~~  
21 ~~third person himself defends the action for such party.))~~

22 CLAIMS TO AN INSTRUMENT. A person taking an instrument, other than  
23 a person having rights of a holder in due course, is subject to a claim  
24 of a property or possessory right in the instrument or its proceeds,  
25 including a claim to rescind a negotiation and to recover the  
26 instrument or its proceeds. A person having rights of a holder in due  
27 course takes free of the claim to the instrument.

1       **Sec. 35.** RCW 62A.3-307 and 1965 ex.s. c 157 s 3-307 are each  
2 amended to read as follows:

3       ~~((BURDEN OF ESTABLISHING SIGNATURES, DEFENSES AND DUE COURSE.~~

4       ~~(1) Unless specifically denied in the pleadings each signature on~~  
5 ~~an instrument is admitted. When the effectiveness of a signature is~~  
6 ~~put in issue~~

7       ~~(a) the burden of establishing it is on the party claiming under~~  
8 ~~the signature; but~~

9       ~~(b) the signature is presumed to be genuine or authorized except~~  
10 ~~where the action is to enforce the obligation of a purported signer who~~  
11 ~~has died or become incompetent before proof is required.~~

12       ~~(2) When signatures are admitted or established, production of the~~  
13 ~~instrument entitles a holder to recover on it unless the defendant~~  
14 ~~establishes a defense.~~

15       ~~(3) After it is shown that a defense exists a person claiming the~~  
16 ~~rights of a holder in due course has the burden of establishing that he~~  
17 ~~or some person under whom he claims is in all respects a holder in due~~  
18 ~~course.))~~

19       NOTICE OF BREACH OF FIDUCIARY DUTY. (1) In this section:

20       (a) "Fiduciary" means an agent, trustee, partner, corporate officer  
21 or director, or other representative owing a fiduciary duty with  
22 respect to an instrument.

23       (b) "Represented person" means the principal, beneficiary,  
24 partnership, corporation, or other person to whom the duty stated in  
25 subsection (1)(a) is owed.

26       (2) If (a) an instrument is taken from a fiduciary for payment or  
27 collection or for value, (b) the taker has knowledge of the fiduciary  
28 status of the fiduciary, and (c) the represented person makes a claim  
29 to the instrument or its proceeds on the basis that the transaction of  
30 the fiduciary is a breach of fiduciary duty, the following rules apply:

1       (i) Notice of breach of fiduciary duty by the fiduciary is notice  
2 of the claim of the represented person.

3       (ii) In the case of an instrument payable to the represented person  
4 or the fiduciary as such, the taker has notice of the breach of  
5 fiduciary duty if the instrument is (A) taken in payment of or as  
6 security for a debt known by the taker to be the personal debt of the  
7 fiduciary, (B) taken in a transaction known by the taker to be for the  
8 personal benefit of the fiduciary, or (C) deposited to an account other  
9 than an account of the fiduciary, as such, or an account of the  
10 represented person.

11       (iii) If an instrument is issued by the represented person or the  
12 fiduciary as such, and made payable to the fiduciary personally, the  
13 taker does not have notice of the breach of fiduciary duty unless the  
14 taker knows of the breach of fiduciary duty.

15       (iv) If an instrument is issued by the represented person or the  
16 fiduciary as such, to the taker as payee, the taker has notice of the  
17 breach of fiduciary duty if the instrument is (A) taken in payment of  
18 or as security for a debt known by the taker to be the personal debt of  
19 the fiduciary, (B) taken in a transaction known by the taker to be for  
20 the personal benefit of the fiduciary, or (C) deposited to an account  
21 other than an account of the fiduciary, as such, or an account of the  
22 represented person.

23       NEW SECTION. Sec. 36. A new section is added to Title 62A RCW, to  
24 be codified as RCW 62A.3-308, to read as follows:

25       PROOF OF SIGNATURES AND STATUS AS HOLDER IN DUE COURSE. (1)

26 In an action with respect to an instrument, the authenticity of, and  
27 authority to make, each signature on the instrument is admitted unless  
28 specifically denied in the pleadings. If the validity of a signature  
29 is denied in the pleadings, the burden of establishing validity is on

1 the person claiming validity, but the signature is presumed to be  
2 authentic and authorized unless the action is to enforce the liability  
3 of the purported signer and the signer is dead or incompetent at the  
4 time of trial of the issue of validity of the signature. If an action  
5 to enforce the instrument is brought against a person as the  
6 undisclosed principal of a person who signed the instrument as a party  
7 to the instrument, the plaintiff has the burden of establishing that  
8 the defendant is liable on the instrument as a represented person under  
9 RCW 62A.3-402(1).

10 (2) If the validity of signatures is admitted or proved and there  
11 is compliance with subsection (1), a plaintiff producing the instrument  
12 is entitled to payment if the plaintiff proves entitlement to enforce  
13 the instrument under RCW 62A.3-301, unless the defendant proves a  
14 defense or claim in recoupment. If a defense or claim in recoupment is  
15 proved, the right to payment of the plaintiff is subject to the defense  
16 or claim, except to the extent the plaintiff proves that the plaintiff  
17 has rights of a holder in due course which are not subject to the  
18 defense or claim.

19 NEW SECTION. **Sec. 37.** A new section is added to Title 62A RCW, to  
20 be codified as RCW 62A.3-309, to read as follows:

21 ENFORCEMENT OF LOST, DESTROYED, OR STOLEN INSTRUMENT. (1) A  
22 person not in possession of an instrument is entitled to enforce the  
23 instrument if (a) the person was in possession of the instrument and  
24 entitled to enforce it when loss of possession occurred, (b) the loss  
25 of possession was not the result of a transfer by the person or a  
26 lawful seizure, and (c) the person cannot reasonably obtain possession  
27 of the instrument because the instrument was destroyed, its whereabouts  
28 cannot be determined, or it is in the wrongful possession of an unknown

1 person or a person that cannot be found or is not amenable to service  
2 of process.

3 (2) A person seeking enforcement of an instrument under subsection  
4 (1) must prove the terms of the instrument and the person's right to  
5 enforce the instrument. If that proof is made, RCW 62A.3-308 (section  
6 36 of this act) applies to the case as if the person seeking  
7 enforcement had produced the instrument. The court may not enter  
8 judgment in favor of the person seeking enforcement unless it finds  
9 that the person required to pay the instrument is adequately protected  
10 against loss that might occur by reason of a claim by another person to  
11 enforce the instrument. Adequate protection may be provided by any  
12 reasonable means.

13 NEW SECTION. **Sec. 38.** A new section is added to Title 62A RCW, to  
14 be codified as RCW 62A.3-310, to read as follows:

15 EFFECT OF INSTRUMENT ON OBLIGATION FOR WHICH TAKEN. (1) Unless  
16 otherwise agreed, if a certified check, cashier's check, or teller's  
17 check is taken for an obligation, the obligation is discharged to the  
18 same extent discharge would result if an amount of money equal to the  
19 amount of the instrument were taken in payment of the obligation.  
20 Discharge of the obligation does not affect any liability that the  
21 obligor may have as an indorser of the instrument.

22 (2) Unless otherwise agreed and except as provided in subsection  
23 (1), if a note or an uncertified check is taken for an obligation, the  
24 obligation is suspended to the same extent the obligation would be  
25 discharged if an amount of money equal to the amount of the instrument  
26 were taken, and the following rules apply:

27 (a) In the case of an uncertified check, suspension of the  
28 obligation continues until dishonor of the check or until it is paid or



1 certified. Payment or certification of the check results in discharge  
2 of the obligation to the extent of the amount of the check.

3 (b) In the case of a note, suspension of the obligation continues  
4 until dishonor of the note or until it is paid. Payment of the note  
5 results in discharge of the obligation to the extent of the payment.

6 (c) Except as provided in subsection (2)(d), if the check or note  
7 is dishonored and the obligee of the obligation for which the  
8 instrument was taken is the person entitled to enforce the instrument,  
9 the obligee may enforce either the instrument or the obligation. In  
10 the case of an instrument of a third person which is negotiated to the  
11 obligee by the obligor, discharge of the obligor on the instrument also  
12 discharges the obligation.

13 (d) If the person entitled to enforce the instrument taken for an  
14 obligation is a person other than the obligee, the obligee may not  
15 enforce the obligation to the extent the obligation is suspended. If  
16 the obligee is the person entitled to enforce the instrument but no  
17 longer has possession of it because it was lost, stolen, or destroyed,  
18 the obligation may not be enforced to the extent of the amount payable  
19 on the instrument, and to that extent the obligee's rights against the  
20 obligor are limited to enforcement of the instrument.

21 (3) If an instrument other than one described in subsection (1) or  
22 (2) is taken for an obligation, the effect is (a) that stated in  
23 subsection (1) if the instrument is one on which a bank is liable as  
24 maker or acceptor, or (b) that stated in subsection (2) in any other  
25 case.

26 NEW SECTION. **Sec. 39.** A new section is added to Title 62A RCW, to  
27 be codified as RCW 62A.3-311, to read as follows:

28 ACCORD AND SATISFACTION BY USE OF INSTRUMENT. (1) If a person  
29 against whom a claim is asserted proves that (a) that person in good

1 faith tendered an instrument to the claimant as full satisfaction of  
2 the claim, (b) the amount of the claim was unliquidated or subject to  
3 a bona fide dispute, and (c) the claimant obtained payment of the  
4 instrument, the following subsections apply.

5 (2) Unless subsection (3) applies, the claim is discharged if the  
6 person against whom the claim is asserted proves that the instrument or  
7 an accompanying written communication contained a conspicuous statement  
8 to the effect that the instrument was tendered as full satisfaction of  
9 the claim.

10 (3) Subject to subsection (4), a claim is not discharged under  
11 subsection (2) if either of the following applies:

12 (a) The claimant, if an organization, proves that (i) within a  
13 reasonable time before the tender, the claimant sent a conspicuous  
14 statement to the person against whom the claim is asserted that  
15 communications concerning disputed debts, including an instrument  
16 tendered as full satisfaction of a debt, are to be sent to a designated  
17 person, office, or place, and (ii) the instrument or accompanying  
18 communication was not received by that designated person, office, or  
19 place.

20 (b) The claimant, whether or not an organization, proves that  
21 within 90 days after payment of the instrument, the claimant tendered  
22 repayment of the amount of the instrument to the person against whom  
23 the claim is asserted. This subsection (3)(b) does not apply if the  
24 claimant is an organization that sent a statement complying with  
25 subsection (3)(a)(i).

26 (4) A claim is discharged if the person against whom the claim is  
27 asserted proves that within a reasonable time before collection of the  
28 instrument was initiated, the claimant, or an agent of the claimant  
29 having direct responsibility with respect to the disputed obligation,

1 knew that the instrument was tendered in full satisfaction of the  
2 claim.

3 PART 4

4 LIABILITY OF PARTIES

5 **Sec. 40.** RCW 62A.3-401 and 1965 ex.s. c 157 s 3-401 are each  
6 amended to read as follows:

7 SIGNATURE. (1) ~~((No))~~ A person is not liable on an instrument  
8 unless ((his signature appears thereon)) (a) the person signed the  
9 instrument, or (b) the person is represented by an agent or  
10 representative who signed the instrument and the signature is binding  
11 on the represented person under RCW 62A.3-402.

12 (2) A signature ~~((is))~~ may be made ((by use of any name, including  
13 any trade or assumed name, upon an instrument, or by any word or mark  
14 used in lieu of a written signature)) (a) manually or by means of a  
15 device or machine, and (b) by the use of any name, including a trade or  
16 assumed name, or by a word, mark, or symbol executed or adopted by a  
17 person with present intention to authenticate a writing.

18 **Sec. 41.** RCW 62A.3-402 and 1965 ex.s. c 157 s 3-402 are each  
19 amended to read as follows:

20 ~~((SIGNATURE IN AMBIGUOUS CAPACITY. Unless the instrument clearly~~  
21 ~~indicates that a signature is made in some other capacity it is an~~  
22 ~~indorsement.))~~

23 SIGNATURE BY REPRESENTATIVE. (1) If a person acting, or purporting  
24 to act, as a representative signs an instrument by signing either the  
25 name of the represented person or the name of the signer, the  
26 represented person is bound by the signature to the same extent the  
27 represented person would be bound if the signature were on a simple

1 contract. If the represented person is bound, the signature of the  
2 representative is the "authorized signature of the represented person"  
3 and the represented person is liable on the instrument, whether or not  
4 identified in the instrument.

5 (2) If a representative signs the name of the representative to an  
6 instrument and the signature is an authorized signature of the  
7 represented person, the following rules apply:

8 (a) If the form of the signature shows unambiguously that the  
9 signature is made on behalf of the represented person who is identified  
10 in the instrument, the representative is not liable on the instrument.

11 (b) Subject to subsection (3), if (i) the form of the signature  
12 does not show unambiguously that the signature is made in a  
13 representative capacity or (ii) the represented person is not  
14 identified in the instrument, the representative is liable on the  
15 instrument to a holder in due course that took the instrument without  
16 notice that the representative was not intended to be liable on the  
17 instrument. With respect to any other person, the representative is  
18 liable on the instrument unless the representative proves that the  
19 original parties did not intend the representative to be liable on the  
20 instrument.

21 (3) If a representative signs the name of the representative as  
22 drawer of a check without indication of the representative status and  
23 the check is payable from an account of the represented person who is  
24 identified on the check, the signer is not liable on the check if the  
25 signature is an authorized signature of the represented person.

26 **Sec. 42.** RCW 62A.3-403 and 1965 ex.s. c 157 s 3-403 are each  
27 amended to read as follows:

28 ~~((SIGNATURE BY AUTHORIZED REPRESENTATIVE. (1) A signature may~~  
29 ~~be made by an agent or other representative, and his authority to make~~

1 ~~it may be established as in other cases of representation. No~~  
2 ~~particular form of appointment is necessary to establish such~~  
3 ~~authority.~~

4 ~~(2) An authorized representative who signs his own name to an~~  
5 ~~instrument~~

6 ~~(a) is personally obligated if the instrument neither names the~~  
7 ~~person represented nor shows that the representative signed in a~~  
8 ~~representative capacity;~~

9 ~~(b) except as otherwise established between the immediate parties,~~  
10 ~~is personally obligated if the instrument names the person represented~~  
11 ~~but does not show that the representative signed in a representative~~  
12 ~~capacity, or if the instrument does not name the person represented but~~  
13 ~~does show that the representative signed in a representative capacity.~~

14 ~~(3) Except as otherwise established the name of an organization~~  
15 ~~preceded or followed by the name and office of an authorized individual~~  
16 ~~is a signature made in a representative capacity.))~~

17 UNAUTHORIZED SIGNATURE. (1) Unless otherwise provided in this  
18 Article or Article 4, an unauthorized signature is ineffective except  
19 as the signature of the unauthorized signer in favor of a person who in  
20 good faith pays the instrument or takes it for value. An unauthorized  
21 signature may be ratified for all purposes of this Article.

22 (2) If the signature of more than one person is required to  
23 constitute the authorized signature of an organization, the signature  
24 of the organization is unauthorized if one of the required signatures  
25 is lacking.

26 (3) The civil or criminal liability of a person who makes an  
27 unauthorized signature is not affected by any provision of this Article  
28 which makes the unauthorized signature effective for the purposes of  
29 this Article.

1       **Sec. 43.**   RCW 62A.3-404 and 1965 ex.s. c 157 s 3-404 are each  
2 amended to read as follows:

3       (~~UNAUTHORIZED SIGNATURES. (1) Any unauthorized signature is~~  
4 ~~wholly inoperative as that of the person whose name is signed unless he~~  
5 ~~ratifies it or is precluded from denying it; but it operates as the~~  
6 ~~signature of the unauthorized signer in favor of any person who in good~~  
7 ~~faith pays the instrument or takes it for value.~~

8       ~~(2) Any unauthorized signature may be ratified for all purposes of~~  
9 ~~this Article. Such ratification does not of itself affect any rights~~  
10 ~~of the person ratifying against the actual signer.)~~

11       IMPOSTORS; FICTITIOUS PAYEES. (1) If an impostor, by use of the  
12 mails or otherwise, induces the issuer of an instrument to issue the  
13 instrument to the impostor, or to a person acting in concert with the  
14 impostor, by impersonating the payee of the instrument or a person  
15 authorized to act for the payee, an indorsement of the instrument by  
16 any person in the name of the payee is effective as the indorsement of  
17 the payee in favor of a person who, in good faith, pays the instrument  
18 or takes it for value or for collection.

19       (2) If (a) a person whose intent determines to whom an instrument  
20 is payable (RCW 62A.3-110 (1) or (2)) does not intend the person  
21 identified as payee to have any interest in the instrument, or (b) the  
22 person identified as payee of an instrument is a fictitious person, the  
23 following rules apply until the instrument is negotiated by special  
24 indorsement:

25       (i) Any person in possession of the instrument is its holder.

26       (ii) An indorsement by any person in the name of the payee stated  
27 in the instrument is effective as the indorsement of the payee in favor  
28 of a person who, in good faith, pays the instrument or takes it for  
29 value or for collection.

1       (3) Under subsection (1) or (2), an indorsement is made in the name  
2 of a payee if (a) it is made in a name substantially similar to that of  
3 the payee or (b) the instrument, whether or not indorsed, is deposited  
4 in a depository bank to an account in a name substantially similar to  
5 that of the payee.

6       (4) With respect to an instrument to which subsection (1) or (2)  
7 applies, if a person paying the instrument or taking it for value or  
8 for collection fails to exercise ordinary care in paying or taking the  
9 instrument and that failure substantially contributes to loss resulting  
10 from payment of the instrument, the person bearing the loss may recover  
11 from the person failing to exercise ordinary care to the extent the  
12 failure to exercise ordinary care contributed to the loss.

13       **Sec. 44.** RCW 62A.3-405 and 1965 ex.s. c 157 s 3-405 are each  
14 amended to read as follows:

15       ~~((IMPOSTORS; SIGNATURE IN NAME OF PAYEE.———(1) An indorsement~~  
16 ~~by any person in the name of a named payee is effective if~~

17       ~~(a) an impostor by use of the mails or otherwise has induced the~~  
18 ~~maker or drawer to issue the instrument to him or his confederate in~~  
19 ~~the name of the payee; or~~

20       ~~(b) a person signing as or on behalf of a maker or drawer intends~~  
21 ~~the payee to have no interest in the instrument; or~~

22       ~~(c) an agent or employee of the maker or drawer has supplied him~~  
23 ~~with the name of the payee intending the latter to have no such~~  
24 ~~interest.~~

25       ~~(2) Nothing in this section shall affect the criminal or civil~~  
26 ~~liability of the person so indorsing.))~~

27       EMPLOYER'S RESPONSIBILITY FOR FRAUDULENT INDORSEMENT BY EMPLOYEE.

28       (1) In this section:

1       (a) "Employee" includes an independent contractor and employee of  
2 an independent contractor retained by the employer.

3       (b) "Fraudulent indorsement" means (i) in the case of an instrument  
4 payable to the employer, a forged indorsement purporting to be that of  
5 the employer, or (ii) in the case of an instrument with respect to  
6 which the employer is the issuer, a forged indorsement purporting to be  
7 that of the person identified as payee.

8       (c) "Responsibility" with respect to instruments means authority  
9 (i) to sign or indorse instruments on behalf of the employer, (ii) to  
10 process instruments received by the employer for bookkeeping purposes,  
11 for deposit to an account, or for other disposition, (iii) to prepare  
12 or process instruments for issue in the name of the employer, (iv) to  
13 supply information determining the names or addresses of payees of  
14 instruments to be issued in the name of the employer, (v) to control  
15 the disposition of instruments to be issued in the name of the  
16 employer, or (vi) to act otherwise with respect to instruments in a  
17 responsible capacity. "Responsibility" does not include authority that  
18 merely allows an employee to have access to instruments or blank or  
19 incomplete instrument forms that are being stored or transported or are  
20 part of incoming or outgoing mail, or similar access.

21       (2) For the purpose of determining the rights and liabilities of a  
22 person who, in good faith, pays an instrument or takes it for value or  
23 for collection, if an employer entrusted an employee with  
24 responsibility with respect to the instrument and the employee or a  
25 person acting in concert with the employee makes a fraudulent  
26 indorsement of the instrument, the indorsement is effective as the  
27 indorsement of the person to whom the instrument is payable if it is  
28 made in the name of that person. If the person paying the instrument  
29 or taking it for value or for collection fails to exercise ordinary  
30 care in paying or taking the instrument and that failure substantially



1 contributes to loss resulting from the fraud, the person bearing the  
2 loss may recover from the person failing to exercise ordinary care to  
3 the extent the failure to exercise ordinary care contributed to the  
4 loss.

5 (3) Under subsection (2), an indorsement is made in the name of the  
6 person to whom an instrument is payable if (a) it is made in a name  
7 substantially similar to the name of that person or (b) the instrument,  
8 whether or not indorsed, is deposited in a depository bank to an  
9 account in a name substantially similar to the name of that person.

10 **Sec. 45.** RCW 62A.3-406 and 1965 ex.s. c 157 s 3-406 are each  
11 amended to read as follows:

12 NEGLIGENCE CONTRIBUTING TO FORGED SIGNATURE OR ALTERATION ((OR  
13 UNAUTHORIZED SIGNATURE)) OF INSTRUMENT. ((Any)) (1) A person  
14 ((who by his negligence)) whose failure to exercise ordinary care  
15 substantially contributes to ((a material)) an alteration of ((the)) an  
16 instrument or to the making of ((an unauthorized signature)) a forged  
17 signature on an instrument is precluded from asserting the alteration  
18 or ((lack of authority)) the forgery against a ((holder in due course  
19 or against a drawee or other payor)) person who, in good faith, pays  
20 the instrument ((in good faith and in accordance with the reasonable  
21 commercial standards of the drawee's or payor's business)) or takes it  
22 for value or for collection.

23 (2) Under subsection (1), if the person asserting the preclusion  
24 fails to exercise ordinary care in paying or taking the instrument and  
25 that failure substantially contributes to loss, the loss is allocated  
26 between the person precluded and the person asserting the preclusion  
27 according to the extent to which the failure of each to exercise  
28 ordinary care contributed to the loss.

1        (3) Under subsection (1), the burden of proving failure to exercise  
2 ordinary care is on the person asserting the preclusion. Under  
3 subsection (2), the burden of proving failure to exercise ordinary care  
4 is on the person precluded.

5        **Sec. 46.** RCW 62A.3-407 and 1965 ex.s. c 157 s 3-407 are each  
6 amended to read as follows:

7        ALTERATION.        (~~(1) Any alteration of an instrument is material~~  
8 ~~which changes the contract of any party thereto in any respect,~~  
9 ~~including any such change in~~

- 10        ~~(a) the number or relations of the parties; or~~  
11        ~~(b) an incomplete instrument, by completing it otherwise than as~~  
12 ~~authorized; or~~  
13        ~~(c) the writing as signed, by adding to it or by removing any part~~  
14 ~~of it.~~

15        ~~(2) As against any person other than a subsequent holder in due~~  
16 ~~course~~

17        ~~(a) alteration by the holder which is both fraudulent and material~~  
18 ~~discharges any party whose contract is thereby changed unless that~~  
19 ~~party assents or is precluded from asserting the defense;~~

20        ~~(b) no other alteration discharges any party and the instrument may~~  
21 ~~be enforced according to its original tenor, or as to incomplete~~  
22 ~~instruments according to the authority given.~~

23        ~~(3) A subsequent holder in due course may in all cases enforce the~~  
24 ~~instrument according to its original tenor, and when an incomplete~~  
25 ~~instrument has been completed, he may enforce it as completed.)) (1)~~

26 "Alteration" means (a) an unauthorized change in an instrument that  
27 purports to modify in any respect the obligation of a party, or (b) an  
28 unauthorized addition of words or numbers or other change to an  
29 incomplete instrument relating to the obligation of a party.

1        (2) Except as provided in subsection (3), an alteration  
2 fraudulently made discharges a party whose obligation is affected by  
3 the alteration unless that party assents or is precluded from asserting  
4 the alteration. No other alteration discharges a party, and the  
5 instrument may be enforced according to its original terms.

6        (3) A payor bank or drawee paying a fraudulently altered instrument  
7 or a person taking it for value, in good faith and without notice of  
8 the alteration, may enforce rights with respect to the instrument (a)  
9 according to its original terms, or (b) in the case of an incomplete  
10 instrument altered by unauthorized completion, according to its terms  
11 as completed.

12        **Sec. 47.** RCW 62A.3-408 and 1965 ex.s. c 157 s 3-408 are each  
13 amended to read as follows:

14        ~~((CONSIDERATION.——Want or failure of consideration is a defense~~  
15 ~~as against any person not having the rights of a holder in due course~~  
16 ~~(RCW 62A.3-305), except that no consideration is necessary for an~~  
17 ~~instrument or obligation thereon given in payment of or as security for~~  
18 ~~an antecedent obligation of any kind. Nothing in this section shall be~~  
19 ~~taken to displace any statute outside this Title under which a promise~~  
20 ~~is enforceable notwithstanding lack or failure of consideration.~~  
21 ~~Partial failure of consideration is a defense pro tanto whether or not~~  
22 ~~the failure is in an ascertained or liquidated amount.))~~

23        DRAWEE NOT LIABLE ON UNACCEPTED DRAFT. A check or other draft does  
24 not of itself operate as an assignment of funds in the hands of the  
25 drawee available for its payment, and the drawee is not liable on the  
26 instrument until the drawee accepts it.

27        **Sec. 48.** RCW 62A.3-409 and 1965 ex.s. c 157 s 3-409 are each  
28 amended to read as follows:

1       ~~((DRAFT NOT AN ASSIGNMENT.———(1) A check or other draft does not~~  
2 ~~of itself operate as an assignment of any funds in the hands of the~~  
3 ~~drawee available for its payment, and the drawee is not liable on the~~  
4 ~~instrument until he accepts it.~~

5       ~~(2) Nothing in this section shall affect any liability in contract,~~  
6 ~~tort or otherwise arising from any letter of credit or other obligation~~  
7 ~~or representation which is not an acceptance.))~~

8       ACCEPTANCE OF DRAFT; CERTIFIED CHECK. (1) "Acceptance" means the  
9 drawee's signed agreement to pay a draft as presented. It must be  
10 written on the draft and may consist of the drawee's signature alone.  
11 Acceptance may be made at any time and becomes effective when  
12 notification pursuant to instructions is given or the accepted draft is  
13 delivered for the purpose of giving rights on the acceptance to any  
14 person.

15       (2) A draft may be accepted although it has not been signed by the  
16 drawer, is otherwise incomplete, is overdue, or has been dishonored.

17       (3) If a draft is payable at a fixed period after sight and the  
18 acceptor fails to date the acceptance, the holder may complete the  
19 acceptance by supplying a date in good faith.

20       (4) "Certified check" means a check accepted by the bank on which  
21 it is drawn. Acceptance may be made as stated in subsection (1) or by  
22 a writing on the check which indicates that the check is certified.  
23 The drawee of a check has no obligation to certify the check, and  
24 refusal to certify is not dishonor of the check.

25       **Sec. 49.** RCW 62A.3-410 and 1965 ex.s. c 157 s 3-410 are each  
26 amended to read as follows:

27       ~~((DEFINITION AND OPERATION OF ACCEPTANCE.———(1) Acceptance is~~  
28 ~~the drawee's signed engagement to honor the draft as presented. It~~

1 must be written on the draft, and may consist of his signature alone.  
2 It becomes operative when completed by delivery or notification.

3 (2) A draft may be accepted although it has not been signed by the  
4 drawer or is otherwise incomplete or is overdue or has been dishonored.

5 (3) Where the draft is payable at a fixed period after sight and  
6 the acceptor fails to date his acceptance the holder may complete it by  
7 supplying a date in good faith.))

8 ACCEPTANCE VARYING DRAFT. (1) If the terms of a drawee's  
9 acceptance vary from the terms of the draft as presented, the holder  
10 may refuse the acceptance and treat the draft as dishonored. In that  
11 case, the drawee may cancel the acceptance.

12 (2) The terms of a draft are not varied by an acceptance to pay at  
13 a particular bank or place in the United States, unless the acceptance  
14 states that the draft is to be paid only at that bank or place.

15 (3) If the holder assents to an acceptance varying the terms of a  
16 draft, the obligation of each drawer and indorser that does not  
17 expressly assent to the acceptance is discharged.

18 **Sec. 50.** RCW 62A.3-411 and 1965 ex.s. c 157 s 3-411 are each  
19 amended to read as follows:

20 ((CERTIFICATION OF A CHECK.——(1) Certification of a check is  
21 acceptance. Where a holder procures certification the drawer and all  
22 prior indorsers are discharged.

23 (2) Unless otherwise agreed a bank has no obligation to certify a  
24 check.

25 (3) A bank may certify a check before returning it for lack of  
26 proper indorsement. If it does so the drawer is discharged.))

27 REFUSAL TO PAY CASHIER'S CHECKS, TELLER'S CHECKS, AND CERTIFIED  
28 CHECKS. (1) In this section, "obligated bank" means the acceptor of a

1 certified check or the issuer of a cashier's check or teller's check  
2 bought from the issuer.

3 (2) If the obligated bank wrongfully (a) refuses to pay a cashier's  
4 check or certified check, (b) stops payment of a teller's check, or (c)  
5 refuses to pay a dishonored teller's check, the person asserting the  
6 right to enforce the check is entitled to compensation for expenses and  
7 loss of interest resulting from the nonpayment and may recover  
8 consequential damages if the obligated bank refuses to pay after  
9 receiving notice of particular circumstances giving rise to the  
10 damages.

11 (3) Expenses or consequential damages under subsection (2) are not  
12 recoverable if the refusal of the obligated bank to pay occurs because  
13 (a) the bank suspends payments, (b) the obligated bank asserts a claim  
14 or defense of the bank that it has reasonable grounds to believe is  
15 available against the person entitled to enforce the instrument, (c)  
16 the obligated bank has a reasonable doubt whether the person demanding  
17 payment is the person entitled to enforce the instrument, or (d)  
18 payment is prohibited by law.

19 **Sec. 51.** RCW 62A.3-412 and 1965 ex.s. c 157 s 3-412 are each  
20 amended to read as follows:

21 ~~((ACCEPTANCE VARYING DRAFT. — (1) Where the drawee's proffered~~  
22 ~~acceptance in any manner varies the draft as presented the holder may~~  
23 ~~refuse the acceptance and treat the draft as dishonored in which case~~  
24 ~~the drawee is entitled to have his acceptance cancelled.~~

25 ~~(2) The terms of the draft are not varied by an acceptance to pay~~  
26 ~~at any particular bank or place in the United States, unless the~~  
27 ~~acceptance states that the draft is to be paid only at such bank or~~  
28 ~~place.~~

1       ~~(3) Where the holder assents to an acceptance varying the terms of~~  
2 ~~the draft each drawer and indorser who does not affirmatively assent is~~  
3 ~~discharged.)~~)

4       OBLIGATION OF ISSUER OF NOTE OR CASHIER'S CHECK. The issuer of a  
5 note or cashier's check or other draft drawn on the drawer is obliged  
6 to pay the instrument (1) according to its terms at the time it was  
7 issued or, if not issued, at the time it first came into possession of  
8 a holder, or (2) if the issuer signed an incomplete instrument,  
9 according to its terms when completed, to the extent stated in RCW  
10 62A.3-115 and 62A.3-407. The obligation is owed to a person entitled  
11 to enforce the instrument or to an indorser who paid the instrument  
12 under RCW 62A.3-415.

13       **Sec. 52.** RCW 62A.3-413 and 1965 ex.s. c 157 s 3-413 are each  
14 amended to read as follows:

15       ~~((CONTRACT OF MAKER, DRAWER AND ACCEPTOR. (1) The maker or~~  
16 ~~acceptor engages that he will pay the instrument according to its tenor~~  
17 ~~at the time of his engagement or as completed pursuant to RCW 62A.3-115~~  
18 ~~on incomplete instruments.~~

19       ~~(2) The drawer engages that upon dishonor of the draft and any~~  
20 ~~necessary notice of dishonor or protest he will pay the amount of the~~  
21 ~~draft to the holder or to any indorser who takes it up. The drawer may~~  
22 ~~disclaim this liability by drawing without recourse.~~

23       ~~(3) By making, drawing or accepting the party admits as against all~~  
24 ~~subsequent parties including the drawee the existence of the payee and~~  
25 ~~his then capacity to indorse.)~~)

26       OBLIGATION OF ACCEPTOR. (1) The acceptor of a draft is obliged to  
27 pay the draft (a) according to its terms at the time it was accepted,  
28 even though the acceptance states that the draft is payable "as  
29 originally drawn" or equivalent terms, (b) if the acceptance varies the

1 terms of the draft, according to the terms of the draft as varied, or  
2 (c) if the acceptance is of a draft that is an incomplete instrument,  
3 according to its terms when completed, to the extent stated in RCW  
4 62A.3-115 and 62A.3-407. The obligation is owed to a person entitled  
5 to enforce the draft or to the drawer or an indorser who paid the draft  
6 under RCW 62A.3-414 or 62A.3-415.

7 (2) If the certification of a check or other acceptance of a draft  
8 states the amount certified or accepted, the obligation of the acceptor  
9 is that amount. If (a) the certification or acceptance does not state  
10 an amount, (b) the amount of the instrument is subsequently raised, and  
11 (c) the instrument is then negotiated to a holder in due course, the  
12 obligation of the acceptor is the amount of the instrument at the time  
13 it was taken by the holder in due course.

14 **Sec. 53.** RCW 62A.3-414 and 1965 ex.s. c 157 s 3-414 are each  
15 amended to read as follows:

16 ~~((CONTRACT OF INDORSER; ORDER OF LIABILITY. (1) Unless the~~  
17 ~~indorsement otherwise specifies (as by such words as "without~~  
18 ~~recourse") every indorser engages that upon dishonor and any necessary~~  
19 ~~notice of dishonor and protest he will pay the instrument according to~~  
20 ~~its tenor at the time of his indorsement to the holder or to any~~  
21 ~~subsequent indorser who takes it up, even though the indorser who takes~~  
22 ~~it up was not obligated to do so.~~

23 ~~(2) Unless they otherwise agree indorsers are liable to one another~~  
24 ~~in the order in which they indorse, which is presumed to be the order~~  
25 ~~in which their signatures appear on the instrument.))~~

26 OBLIGATION OF DRAWER. (1) This section does not apply to cashier's  
27 checks or other drafts drawn on the drawer.

28 (2) If an unaccepted draft is dishonored, the drawer is obliged to  
29 pay the draft (a) according to its terms at the time it was issued or,



1 if not issued, at the time it first came into possession of a holder,  
2 or (b) if the drawer signed an incomplete instrument, according to its  
3 terms when completed, to the extent stated in RCW 62A.3-115 and  
4 62A.3-407. The obligation is owed to a person entitled to enforce the  
5 draft or to an indorser who paid the draft under RCW 62A.3-415.

6 (3) If a draft is accepted by a bank, the drawer is discharged,  
7 regardless of when or by whom acceptance was obtained.

8 (4) If a draft is accepted and the acceptor is not a bank, the  
9 obligation of the drawer to pay the draft if the draft is dishonored by  
10 the acceptor is the same as the obligation of an indorser under RCW  
11 62A.3-415 (1) and (3).

12 (5) If a draft states that it is drawn "without recourse" or  
13 otherwise disclaims liability of the drawer to pay the draft, the  
14 drawer is not liable under subsection (2) to pay the draft if the draft  
15 is not a check. A disclaimer of the liability stated in subsection (2)  
16 is not effective if the draft is a check.

17 (6) If (a) a check is not presented for payment or given to a  
18 depository bank for collection within 30 days after its date, (b) the  
19 drawee suspends payments after expiration of the 30-day period without  
20 paying the check, and (c) because of the suspension of payments, the  
21 drawer is deprived of funds maintained with the drawee to cover payment  
22 of the check, the drawer to the extent deprived of funds may discharge  
23 its obligation to pay the check by assigning to the person entitled to  
24 enforce the check the rights of the drawer against the drawee with  
25 respect to the funds.

26 **Sec. 54.** RCW 62A.3-415 and 1965 ex.s. c 157 s 3-415 are each  
27 amended to read as follows:

1       (~~CONTRACT OF ACCOMMODATION PARTY. — (1) An accommodation party is~~  
2 ~~one who signs the instrument in any capacity for the purpose of lending~~  
3 ~~his name to another party to it.~~

4       ~~(2) When the instrument has been taken for value before it is due~~  
5 ~~the accommodation party is liable in the capacity in which he has~~  
6 ~~signed even though the taker knows of the accommodation.~~

7       ~~(3) As against a holder in due course and without notice of the~~  
8 ~~accommodation oral proof of the accommodation is not admissible to give~~  
9 ~~the accommodation party the benefit of discharges dependent on his~~  
10 ~~character as such. In other cases the accommodation character may be~~  
11 ~~shown by oral proof.~~

12       ~~(4) An indorsement which shows that it is not in the chain of title~~  
13 ~~is notice of its accommodation character.~~

14       ~~(5) An accommodation party is not liable to the party accommodated,~~  
15 ~~and if he pays the instrument has a right of recourse on the instrument~~  
16 ~~against such party.))~~

17       OBLIGATION OF INDORSER. (1) Subject to subsections (2), (3), and  
18 (4) and to RCW 62A.3-419(4), if an instrument is dishonored, an  
19 indorser is obliged to pay the amount due on the instrument (a)  
20 according to the terms of the instrument at the time it was indorsed,  
21 or (b) if the indorser indorsed an incomplete instrument, according to  
22 its terms when completed, to the extent stated in RCW 62A.3-115 and  
23 62A.3-407. The obligation of the indorser is owed to a person entitled  
24 to enforce the instrument or to a subsequent indorser who paid the  
25 instrument under this section.

26       (2) If an indorsement states that it is made "without recourse" or  
27 otherwise disclaims liability of the indorser, the indorser is not  
28 liable under subsection (1) to pay the instrument.

29       (3) If notice of dishonor of an instrument is required by RCW  
30 62A.3-503 and notice of dishonor complying with that section is not

1 given to an indorser, the liability of the indorser under subsection  
2 (1) is discharged.

3 (4) If a draft is accepted by a bank after an indorsement is made,  
4 the liability of the indorser under subsection (1) is discharged.

5 (5) If an indorser of a check is liable under subsection (1) and  
6 the check is not presented for payment, or given to a depository bank  
7 for collection, within 30 days after the day the indorsement was made,  
8 the liability of the indorser under subsection (1) is discharged.

9 **Sec. 55.** RCW 62A.3-416 and 1965 ex.s. c 157 s 3-416 are each  
10 amended to read as follows:

11 ~~((CONTRACT OF GUARANTOR.—(1) "Payment guaranteed" or equivalent~~  
12 ~~words added to a signature mean that the signer engages that if the~~  
13 ~~instrument is not paid when due he will pay it according to its tenor~~  
14 ~~without resort by the holder to any other party.~~

15 ~~(2) "Collection guaranteed" or equivalent words added to a~~  
16 ~~signature mean that the signer engages that if the instrument is not~~  
17 ~~paid when due he will pay it according to its tenor, but only after the~~  
18 ~~holder has reduced his claim against the maker or acceptor to judgment~~  
19 ~~and execution has been returned unsatisfied, or after the maker or~~  
20 ~~acceptor has become insolvent or it is otherwise apparent that it is~~  
21 ~~useless to proceed against him.~~

22 ~~(3) Words of guaranty which do not otherwise specify guarantee~~  
23 ~~payment.~~

24 ~~(4) No words of guaranty added to the signature of a sole maker or~~  
25 ~~acceptor affect his liability on the instrument. Such words added to~~  
26 ~~the signature of one of two or more makers or acceptors create a~~  
27 ~~presumption that the signature is for the accommodation of the others.~~

28 ~~(5) When words of guaranty are used presentment, notice of dishonor~~  
29 ~~and protest are not necessary to charge the user.~~

1       ~~(6) Any guaranty written on the instrument is enforceable~~  
2 ~~notwithstanding any statute of frauds.)~~

3       TRANSFER WARRANTIES. (1) A person who transfers an instrument for  
4 consideration warrants to the transferee and, if the transfer is by  
5 indorsement, to any subsequent transferee that:

6       (a) The warrantor is a person entitled to enforce the instrument;

7       (b) All signatures on the instrument are authentic and authorized;

8       (c) The instrument has not been altered;

9       (d) The instrument is not subject to a defense or claim in  
10 recoupment of any party which can be asserted against the warrantor;  
11 and

12       (e) The warrantor has no knowledge of any insolvency proceeding  
13 commenced with respect to the maker or acceptor or, in the case of an  
14 unaccepted draft, the drawer.

15       (2) A person to whom the warranties under subsection (1) are made  
16 and who took the instrument in good faith may recover from the  
17 warrantor as damages for breach of warranty an amount equal to the loss  
18 suffered as a result of the breach, but not more than the amount of the  
19 instrument plus expenses and loss of interest incurred as a result of  
20 the breach.

21       (3) The warranties stated in subsection (1) cannot be disclaimed  
22 with respect to checks. Unless notice of a claim for breach of  
23 warranty is given to the warrantor within 30 days after the claimant  
24 has reason to know of the breach and the identity of the warrantor, the  
25 liability of the warrantor under subsection (2) is discharged to the  
26 extent of any loss caused by the delay in giving notice of the claim.

27       (4) A cause of action for breach of warranty under this section  
28 accrues when the claimant has reason to know of the breach.

1       **Sec. 56.**   RCW 62A.3-417 and 1965 ex.s. c 157 s 3-417 are each  
2 amended to read as follows:

3       (~~WARRANTIES ON PRESENTMENT AND TRANSFER.———(1) Any person who~~  
4 ~~obtains payment or acceptance and any prior transferor warrants to a~~  
5 ~~person who in good faith pays or accepts that~~

6       ~~(a) he has a good title to the instrument or is authorized to~~  
7 ~~obtain payment or acceptance on behalf of one who has a good title; and~~

8       ~~(b) he has no knowledge that the signature of the maker or drawer~~  
9 ~~is unauthorized, except that this warranty is not given by a holder in~~  
10 ~~due course acting in good faith~~

11       ~~(i) to a maker with respect to the maker's own signature; or~~

12       ~~(ii) to a drawer with respect to the drawer's own signature,~~  
13 ~~whether or not the drawer is also the drawee; or~~

14       ~~(iii) to an acceptor of a draft if the holder in due course took~~  
15 ~~the draft after the acceptance or obtained the acceptance without~~  
16 ~~knowledge that the drawer's signature was unauthorized; and~~

17       ~~(c) the instrument has not been materially altered, except that~~  
18 ~~this warranty is not given by a holder in due course acting in good~~  
19 ~~faith~~

20       ~~(i) to the maker of a note; or~~

21       ~~(ii) to the drawer of a draft whether or not the drawer is also the~~  
22 ~~drawee; or~~

23       ~~(iii) to the acceptor of a draft with respect to an alteration made~~  
24 ~~prior to the acceptance if the holder in due course took the draft~~  
25 ~~after the acceptance, even though the acceptance provided "payable as~~  
26 ~~originally drawn" or equivalent terms; or~~

27       ~~(iv) to the acceptor of a draft with respect to an alteration made~~  
28 ~~after the acceptance.~~

29       ~~(2) Any person who transfers an instrument and receives~~  
30 ~~consideration warrants to his transferee and if the transfer is by~~

1 indorsement to any subsequent holder who takes the instrument in good  
2 faith that

3 (a) he has a good title to the instrument or is authorized to  
4 obtain payment or acceptance on behalf of one who has a good title and  
5 the transfer is otherwise rightful; and

6 (b) all signatures are genuine or authorized; and

7 (c) the instrument has not been materially altered; and

8 (d) no defense of any party is good against him; and

9 (e) he has no knowledge of any insolvency proceeding instituted  
10 with respect to the maker or acceptor or the drawer of an unaccepted  
11 instrument.

12 (3) By transferring "without recourse" the transferor limits the  
13 obligation stated in subsection (2)(d) to a warranty that he has no  
14 knowledge of such a defense.

15 (4) A selling agent or broker who does not disclose the fact that  
16 he is acting only as such gives the warranties provided in this  
17 section, but if he makes such disclosure warrants only his good faith  
18 and authority.))

19 PRESENTMENT WARRANTIES. (1) If an unaccepted draft is presented to  
20 the drawee for payment or acceptance and the drawee pays or accepts the  
21 draft, (a) the person obtaining payment or acceptance, at the time of  
22 presentment, and (b) a previous transferor of the draft, at the time of  
23 transfer, warrant to the drawee making payment or accepting the draft  
24 in good faith that:

25 (i) The warrantor is, or was, at the time the warrantor transferred  
26 the draft, a person entitled to enforce the draft or authorized to  
27 obtain payment or acceptance of the draft on behalf of a person  
28 entitled to enforce the draft;

29 (ii) The draft has not been altered; and

1       (iii) The warrantor has no knowledge that the signature of the  
2 drawer of the draft is unauthorized.

3       (2) A drawee making payment may recover from any warrantor damages  
4 for breach of warranty equal to the amount paid by the drawee less the  
5 amount the drawee received or is entitled to receive from the drawer  
6 because of the payment. In addition, the drawee is entitled to  
7 compensation for expenses and loss of interest resulting from the  
8 breach. The right of the drawee to recover damages under this  
9 subsection is not affected by any failure of the drawee to exercise  
10 ordinary care in making payment. If the drawee accepts the draft,  
11 breach of warranty is a defense to the obligation of the acceptor. If  
12 the acceptor makes payment with respect to the draft, the acceptor is  
13 entitled to recover from any warrantor for breach of warranty the  
14 amounts stated in this subsection.

15       (3) If a drawee asserts a claim for breach of warranty under  
16 subsection (1) based on an unauthorized indorsement of the draft or an  
17 alteration of the draft, the warrantor may defend by proving that the  
18 indorsement is effective under RCW 62A.3-404 or 62A.3-405 or the drawer  
19 is precluded under RCW 62A.3-406 or 62A.4-406 from asserting against  
20 the drawee the unauthorized indorsement or alteration.

21       (4) If (a) a dishonored draft is presented for payment to the  
22 drawer or an indorser or (b) any other instrument is presented for  
23 payment to a party obliged to pay the instrument, and (c) payment is  
24 received, the following rules apply:

25       (i) The person obtaining payment and a prior transferor of the  
26 instrument warrant to the person making payment in good faith that the  
27 warrantor is, or was, at the time the warrantor transferred the  
28 instrument, a person entitled to enforce the instrument or authorized  
29 to obtain payment on behalf of a person entitled to enforce the  
30 instrument.

1        (ii) The person making payment may recover from any warrantor for  
2 breach of warranty an amount equal to the amount paid plus expenses and  
3 loss of interest resulting from the breach.

4        (5) The warranties stated in subsections (1) and (4) cannot be  
5 disclaimed with respect to checks. Unless notice of a claim for breach  
6 of warranty is given to the warrantor within 30 days after the claimant  
7 has reason to know of the breach and the identity of the warrantor, the  
8 liability of the warrantor under subsection (2) or (4) is discharged to  
9 the extent of any loss caused by the delay in giving notice of the  
10 claim.

11        (6) A cause of action for breach of warranty under this section  
12 accrues when the claimant has reason to know of the breach.

13        **Sec. 57.** RCW 62A.3-418 and 1965 ex.s. c 157 s 3-418 are each  
14 amended to read as follows:

15        ~~((FINALITY OF PAYMENT OR ACCEPTANCE. Except for recovery of~~  
16 ~~bank payments as provided in the Article on Bank Deposits and~~  
17 ~~Collections (Article 4) and except for liability for breach of warranty~~  
18 ~~on presentment under the preceding section, payment or acceptance of~~  
19 ~~any instrument is final in favor of a holder in due course, or a person~~  
20 ~~who has in good faith changed his position in reliance on the~~  
21 ~~payment.))~~

22        PAYMENT OR ACCEPTANCE BY MISTAKE. (1) Except as provided in  
23 subsection (3), if the drawee of a draft pays or accepts the draft and  
24 the drawee acted on the mistaken belief that (a) payment of the draft  
25 had not been stopped pursuant to RCW 62A.4-403 or (b) the signature of  
26 the drawer of the draft was authorized, the drawee may recover the  
27 amount of the draft from the person to whom or for whose benefit  
28 payment was made or, in the case of acceptance, may revoke the  
29 acceptance. Rights of the drawee under this subsection are not



1 affected by failure of the drawee to exercise ordinary care in paying  
2 or accepting the draft.

3 (2) Except as provided in subsection (3), if an instrument has been  
4 paid or accepted by mistake and the case is not covered by subsection  
5 (1), the person paying or accepting may, to the extent permitted by the  
6 law governing mistake and restitution, (a) recover the payment from the  
7 person to whom or for whose benefit payment was made or (b) in the case  
8 of acceptance, may revoke the acceptance.

9 (3) The remedies provided by subsection (1) or (2) may not be  
10 asserted against a person who took the instrument in good faith and for  
11 value or who in good faith changed position in reliance on the payment  
12 or acceptance. This subsection does not limit remedies provided by RCW  
13 62A.3-417 or 62A.4-407.

14 (4) Notwithstanding RCW 62A.4-213, if an instrument is paid or  
15 accepted by mistake and the payor or acceptor recovers payment or  
16 revokes acceptance under subsection (1) or (2), the instrument is  
17 deemed not to have been paid or accepted and is treated as dishonored,  
18 and the person from whom payment is recovered has rights as a person  
19 entitled to enforce the dishonored instrument.

20 **Sec. 58.** RCW 62A.3-419 and 1965 ex.s. c 157 s 3-419 are each  
21 amended to read as follows:

22 ~~((CONVERSION OF INSTRUMENT; INNOCENT REPRESENTATIVE.——(1) An~~  
23 ~~instrument is converted when~~

24 ~~(a) a drawee to whom it is delivered for acceptance refuses to~~  
25 ~~return it on demand; or~~

26 ~~(b) any person to whom it is delivered for payment refuses on~~  
27 ~~demand either to pay or to return it; or~~

28 ~~(c) it is paid on a forged indorsement.~~

1       ~~(2) In an action against a drawee under subsection (1) the measure~~  
2 ~~of the drawee's liability is the face amount of the instrument. In any~~  
3 ~~other action under subsection (1) the measure of liability is presumed~~  
4 ~~to be the face amount of the instrument.~~

5       ~~(3) Subject to the provisions of this Title concerning restrictive~~  
6 ~~indorsements a representative, including a depositary or collecting~~  
7 ~~bank, who has in good faith and in accordance with the reasonable~~  
8 ~~commercial standards applicable to the business of such representative~~  
9 ~~dealt with an instrument or its proceeds on behalf of one who was not~~  
10 ~~the true owner is not liable in conversion or otherwise to the true~~  
11 ~~owner beyond the amount of any proceeds remaining in his hands.~~

12       ~~(4) An intermediary bank or payor bank which is not a depositary~~  
13 ~~bank is not liable in conversion solely by reason of the fact that~~  
14 ~~proceeds of an item indorsed restrictively (RCW 62A.3-205 and RCW~~  
15 ~~62A.3-206) are not paid or applied consistently with the restrictive~~  
16 ~~indorsement of an indorser other than its immediate transferor.))~~

17       INSTRUMENTS SIGNED FOR ACCOMMODATION. (1) If an instrument is  
18 issued for value given for the benefit of a party to the instrument  
19 ("accommodated party") and another party to the instrument  
20 ("accommodation party") signs the instrument for the purpose of  
21 incurring liability on the instrument without being a direct  
22 beneficiary of the value given for the instrument, the instrument is  
23 signed by the accommodation party "for accommodation."

24       (2) An accommodation party may sign the instrument as maker,  
25 drawer, acceptor, or indorser and, subject to subsection (4), is  
26 obliged to pay the instrument in the capacity in which the  
27 accommodation party signs. The obligation of an accommodation party  
28 may be enforced notwithstanding any statute of frauds and whether or  
29 not the accommodation party receives consideration for the  
30 accommodation.

1       (3) A person signing an instrument is presumed to be an  
2 accommodation party and there is notice that the instrument is signed  
3 for accommodation if the signature is an anomalous indorsement or is  
4 accompanied by words indicating that the signer is acting as surety or  
5 guarantor with respect to the obligation of another party to the  
6 instrument. Except as provided in RCW 62A.3-605, the obligation of an  
7 accommodation party to pay the instrument is not affected by the fact  
8 that the person enforcing the obligation had notice when the instrument  
9 was taken by that person that the accommodation party signed the  
10 instrument for accommodation.

11       (4) If the signature of a party to an instrument is accompanied by  
12 words indicating unambiguously that the party is guaranteeing  
13 collection rather than payment of the obligation of another party to  
14 the instrument, the signer is obliged to pay the amount due on the  
15 instrument to a person entitled to enforce the instrument only if (a)  
16 execution of judgment against the other party has been returned  
17 unsatisfied, (b) the other party is insolvent or in an insolvency  
18 proceeding, (c) the other party cannot be served with process, or (d)  
19 it is otherwise apparent that payment cannot be obtained from the other  
20 party.

21       (5) An accommodation party who pays the instrument is entitled to  
22 reimbursement from the accommodated party and is entitled to enforce  
23 the instrument against the accommodated party. An accommodated party  
24 who pays the instrument has no right of recourse against, and is not  
25 entitled to contribution from, an accommodation party.

26       NEW SECTION. Sec. 59. A new section is added to Title 62A RCW, to  
27 be codified as RCW 62A.3-420, to read as follows:

28       CONVERSION OF INSTRUMENT.       (1) The law applicable to  
29 conversion of personal property applies to instruments. An instrument

1 is also converted if it is taken by transfer, other than a negotiation,  
2 from a person not entitled to enforce the instrument or a bank makes or  
3 obtains payment with respect to the instrument for a person not  
4 entitled to enforce the instrument or receive payment. An action for  
5 conversion of an instrument may not be brought by (a) the issuer or  
6 acceptor of the instrument or (b) a payee or indorsee who did not  
7 receive delivery of the instrument either directly or through delivery  
8 to an agent or a co-payee.

9 (2) In an action under subsection (1), the measure of liability is  
10 presumed to be the amount payable on the instrument, but recovery may  
11 not exceed the amount of the plaintiff's interest in the instrument.

12 (3) A representative, other than a depository bank, who has in good  
13 faith dealt with an instrument or its proceeds on behalf of one who was  
14 not the person entitled to enforce the instrument is not liable in  
15 conversion to that person beyond the amount of any proceeds that it has  
16 not paid out.

17 PART 5

18 (~~PRESENTMENT, NOTICE OF~~) DISHONOR (~~AND PROTEST~~)

19 **Sec. 60.** RCW 62A.3-501 and 1965 ex.s. c 157 s 3-501 are each  
20 amended to read as follows:

21 (~~WHEN PRESENTMENT, NOTICE OF DISHONOR, AND PROTEST NECESSARY OR~~  
22 ~~PERMISSIBLE. (1) Unless excused (RCW 62A.3-511) presentment is~~  
23 ~~necessary to charge secondary parties as follows:~~

24 ~~(a) presentment for acceptance is necessary to charge the drawer~~  
25 ~~and indorsers of a draft where the draft so provides, or is payable~~  
26 ~~elsewhere than at the residence or place of business of the drawee, or~~  
27 ~~its date of payment depends upon such presentment. The holder may at~~

1 his option present for acceptance any other draft payable at a stated  
2 date;

3 (b) presentment for payment is necessary to charge any indorser;

4 (c) in the case of any drawer, the acceptor of a draft payable at  
5 a bank or the maker of a note payable at a bank, presentment for  
6 payment is necessary, but failure to make presentment discharges such  
7 drawer, acceptor or maker only as stated in RCW 62A.3-502(1)(b).

8 (2) Unless excused (RCW 62A.3-511)

9 (a) notice of any dishonor is necessary to charge any indorser;

10 (b) in the case of any drawer, the acceptor of a draft payable at  
11 a bank or the maker of a note payable at a bank, notice of any dishonor  
12 is necessary, but failure to give such notice discharges such drawer,  
13 acceptor or maker only as stated in RCW 62A.3-502(1)(b).

14 (3) Unless excused (RCW 62A.3-511) protest of any dishonor is  
15 necessary to charge the drawer and indorsers of any draft which on its  
16 face appears to be drawn or payable outside of the states and  
17 territories of the United States and the District of Columbia. The  
18 holder may at his option make protest of any dishonor of any other  
19 instrument and in the case of a foreign draft may on insolvency of the  
20 acceptor before maturity make protest for better security.

21 (4) Notwithstanding any provision of this section, neither  
22 presentment nor notice of dishonor nor protest is necessary to charge  
23 an indorser who has indorsed an instrument after maturity.))

24 PRESENTMENT. (1) "Presentment" means a demand made by or on behalf  
25 of a person entitled to enforce an instrument (a) to pay the instrument  
26 made to the drawee or a party obliged to pay the instrument or, in the  
27 case of a note or accepted draft payable at a bank, to the bank, or (b)  
28 to accept a draft made to the drawee.

29 (2) The following rules are subject to Article 4, agreement of the  
30 parties, and clearinghouse rules and the like:

1       (a) Presentment may be made at the place of payment of the  
2 instrument and must be made at the place of payment if the instrument  
3 is payable at a bank in the United States; may be made by any  
4 commercially reasonable means, including an oral, written, or  
5 electronic communication; is effective when the demand for payment or  
6 acceptance is received by the person to whom presentment is made; and  
7 is effective if made to any one of two or more makers, acceptors,  
8 drawees, or other payors.

9       (b) Upon demand of the person to whom presentment is made, the  
10 person making presentment must (i) exhibit the instrument, (ii) give  
11 reasonable identification and, if presentment is made on behalf of  
12 another person, reasonable evidence of authority to do so, and (iii)  
13 sign a receipt on the instrument for any payment made or surrender the  
14 instrument if full payment is made.

15       (c) Without dishonoring the instrument, the party to whom  
16 presentment is made may (i) return the instrument for lack of a  
17 necessary indorsement, or (ii) refuse payment or acceptance for failure  
18 of the presentment to comply with the terms of the instrument, an  
19 agreement of the parties, or other applicable law or rule.

20       (d) The party to whom presentment is made may treat presentment as  
21 occurring on the next business day after the day of presentment if the  
22 party to whom presentment is made has established a cut-off hour not  
23 earlier than 2:00 p.m. for the receipt and processing of instruments  
24 presented for payment or acceptance and presentment is made after the  
25 cut-off hour.

26       **Sec. 61.** RCW 62A.3-502 and 1965 ex.s. c 157 s 3-502 are each  
27 amended to read as follows:

1       (~~UNEXCUSED DELAY; DISCHARGE. — (1) Where without excuse any~~  
2 ~~necessary presentment or notice of dishonor is delayed beyond the time~~  
3 ~~when it is due~~

4       ~~(a) any indorser is discharged; and~~

5       ~~(b) any drawer or the acceptor of a draft payable at a bank or the~~  
6 ~~maker of a note payable at a bank who because the drawee or payor bank~~  
7 ~~becomes insolvent during the delay is deprived of funds maintained with~~  
8 ~~the drawee or payor bank to cover the instrument may discharge his~~  
9 ~~liability by written assignment to the holder of his rights against the~~  
10 ~~drawee or payor bank in respect of such funds, but such drawer,~~  
11 ~~acceptor or maker is not otherwise discharged.~~

12       ~~(2) Where without excuse a necessary protest is delayed beyond the~~  
13 ~~time when it is due any drawer or indorser is discharged.)~~

14       DISHONOR. (1) Dishonor of a note is governed by the following  
15 rules:

16       (a) If the note is payable on demand, the note is dishonored if  
17 presentment is duly made to the maker and the note is not paid on the  
18 day of presentment.

19       (b) If the note is not payable on demand and is payable at or  
20 through a bank or the terms of the note require presentment, the note  
21 is dishonored if presentment is duly made and the note is not paid on  
22 the day it becomes payable or the day of presentment, whichever is  
23 later.

24       (c) If the note is not payable on demand and subsection (1)(b) does  
25 not apply, the note is dishonored if it is not paid on the day it  
26 becomes payable.

27       (2) Dishonor of an unaccepted draft other than a documentary draft  
28 is governed by the following rules:

29       (a) If a check is duly presented for payment to the payor bank  
30 otherwise than for immediate payment over the counter, the check is

1 dishonored if the payor bank makes timely return of the check or sends  
2 timely notice of dishonor or nonpayment under RCW 62A.4-301 or  
3 62A.4-302, or becomes accountable for the amount of the check under RCW  
4 62A.4-302.

5 (b) If a draft is payable on demand and subsection (2)(a) does not  
6 apply, the draft is dishonored if presentment for payment is duly made  
7 to the drawee and the draft is not paid on the day of presentment.

8 (c) If a draft is payable on a date stated in the draft, the draft  
9 is dishonored if (i) presentment for payment is duly made to the drawee  
10 and payment is not made on the day the draft becomes payable or the day  
11 of presentment, whichever is later, or (ii) presentment for acceptance  
12 is duly made before the day the draft becomes payable and the draft is  
13 not accepted on the day of presentment.

14 (d) If a draft is payable on elapse of a period of time after sight  
15 or acceptance, the draft is dishonored if presentment for acceptance is  
16 duly made and the draft is not accepted on the day of presentment.

17 (3) Dishonor of an unaccepted documentary draft occurs according to  
18 the rules stated in subsection (2) (b), (c), and (d), except that  
19 payment or acceptance may be delayed without dishonor until no later  
20 than the close of the third business day of the drawee following the  
21 day on which payment or acceptance is required by subsection (2) (b),  
22 (c), and (d).

23 (4) Dishonor of an accepted draft is governed by the following  
24 rules:

25 (a) If the draft is payable on demand, the draft is dishonored if  
26 presentment for payment is duly made to the acceptor and the draft is  
27 not paid on the day of presentment; or

28 (b) If the draft is not payable on demand, the draft is dishonored  
29 if presentment for payment is duly made to the acceptor and payment is



1 not made on the day it becomes payable or the day of presentment,  
2 whichever is later.

3 (5) In any case in which presentment is otherwise required for  
4 dishonor under this section and presentment is excused under RCW  
5 62A.3-504, dishonor occurs without presentment if the instrument is not  
6 duly accepted or paid.

7 (6) If a draft is dishonored because timely acceptance of the draft  
8 was not made and the person entitled to demand acceptance consents to  
9 a late acceptance, from the time of acceptance the draft is treated as  
10 never having been dishonored.

11 **Sec. 62.** RCW 62A.3-503 and 1965 ex.s. c 157 s 3-503 are each  
12 amended to read as follows:

13 ~~((TIME OF PRESENTMENT.——(1) Unless a different time is expressed~~  
14 ~~in the instrument the time for any presentment is determined as~~  
15 ~~follows:~~

16 ~~(a) where an instrument is payable at or a fixed period after a~~  
17 ~~stated date any presentment for acceptance must be made on or before~~  
18 ~~the date it is payable;~~

19 ~~(b) where an instrument is payable after sight it must either be~~  
20 ~~presented for acceptance or negotiated within a reasonable time after~~  
21 ~~date or issue whichever is later;~~

22 ~~(c) where an instrument shows the date on which it is payable~~  
23 ~~presentment for payment is due on that date;~~

24 ~~(d) where an instrument is accelerated presentment for payment is~~  
25 ~~due within a reasonable time after the acceleration;~~

26 ~~(e) with respect to the liability of any secondary party~~  
27 ~~presentment for acceptance or payment of any other instrument is due~~  
28 ~~within a reasonable time after such party becomes liable thereon.~~

1       ~~(2) A reasonable time for presentment is determined by the nature~~  
2 ~~of the instrument, any usage of banking or trade and the facts of the~~  
3 ~~particular case. In the case of an uncertified check which is drawn~~  
4 ~~and payable within the United States and which is not a draft drawn by~~  
5 ~~a bank the following are presumed to be reasonable periods within which~~  
6 ~~to present for payment or to initiate bank collection:~~

7       ~~(a) with respect to the liability of the drawer, thirty days after~~  
8 ~~date or issue whichever is later; and~~

9       ~~(b) with respect to the liability of an endorser, seven days after~~  
10 ~~his indorsement.~~

11       ~~(3) Where any presentment is due on a day which is not a full~~  
12 ~~business day for either the person making presentment or the party to~~  
13 ~~pay or accept, presentment is due on the next following day which is a~~  
14 ~~full business day for both parties.~~

15       ~~(4) Presentment to be sufficient must be made at a reasonable hour,~~  
16 ~~and if at a bank during its banking day.)~~

17       NOTICE OF DISHONOR. (1) The obligation of an indorser stated in  
18 RCW 62A.3-415(1) and the obligation of a drawer stated in RCW  
19 62A.3-414(4) may not be enforced unless (a) the indorser or drawer is  
20 given notice of dishonor of the instrument complying with this section  
21 or (b) notice of dishonor is excused under RCW 62A.3-504(2).

22       (2) Notice of dishonor may be given by any person; may be given by  
23 any commercially reasonable means, including an oral, written, or  
24 electronic communication; and is sufficient if it reasonably identifies  
25 the instrument and indicates that the instrument has been dishonored or  
26 has not been paid or accepted. Return of an instrument given to a bank  
27 for collection is sufficient notice of dishonor.

28       (3) Subject to RCW 62A.3-504(3), with respect to an instrument  
29 taken for collection by a collecting bank, notice of dishonor must be  
30 given (a) by the bank before midnight of the next banking day following

1 the banking day on which the bank receives notice of dishonor of the  
2 instrument, or (b) by any other person within 30 days following the day  
3 on which the person receives notice of dishonor. With respect to any  
4 other instrument, notice of dishonor must be given within 30 days  
5 following the day on which dishonor occurs.

6 **Sec. 63.** RCW 62A.3-504 and 1965 ex.s. c 157 s 3-504 are each  
7 amended to read as follows:

8 ~~((HOW PRESENTMENT MADE. (1) Presentment is a demand for~~  
9 ~~acceptance or payment made upon the maker, acceptor, drawee or other~~  
10 ~~payor by or on behalf of the holder.~~

11 ~~(2) Presentment may be made~~

12 ~~(a) by mail, in which event the time of presentment is determined~~  
13 ~~by the time of receipt of the mail; or~~

14 ~~(b) through a clearing house; or~~

15 ~~(c) at the place of acceptance or payment specified in the~~  
16 ~~instrument or if there be none at the place of business or residence of~~  
17 ~~the party to accept or pay. If neither the party to accept or pay nor~~  
18 ~~anyone authorized to act for him is present or accessible at such place~~  
19 ~~presentment is excused.~~

20 ~~(3) It may be made~~

21 ~~(a) to any one of two or more makers, acceptors, drawees or other~~  
22 ~~payors; or~~

23 ~~(b) to any person who has authority to make or refuse the~~  
24 ~~acceptance or payment.~~

25 ~~(4) A draft accepted or a note made payable at a bank in the United~~  
26 ~~States must be presented at such bank.~~

27 ~~(5) In the cases described in RCW 62A.4-210 presentment may be made~~  
28 ~~in the manner and with the result stated in that section.))~~

1       EXCUSED PRESENTMENT AND NOTICE OF DISHONOR. (1) Presentment for  
2 payment or acceptance of an instrument is excused if (a) the person  
3 entitled to present the instrument cannot with reasonable diligence  
4 make presentment, (b) the maker or acceptor has repudiated an  
5 obligation to pay the instrument or is dead or in insolvency  
6 proceedings, (c) by the terms of the instrument presentment is not  
7 necessary to enforce the obligation of indorsers or the drawer, (d) the  
8 drawer or indorser whose obligation is being enforced has waived  
9 presentment or otherwise has no reason to expect or right to require  
10 that the instrument be paid or accepted, or (e) the drawer instructed  
11 the drawee not to pay or accept the draft or the drawee was not  
12 obligated to the drawer to pay the draft.

13       (2) Notice of dishonor is excused if (a) by the terms of the  
14 instrument notice of dishonor is not necessary to enforce the  
15 obligation of a party to pay the instrument, or (b) the party whose  
16 obligation is being enforced waived notice of dishonor. A waiver of  
17 presentment is also a waiver of notice of dishonor.

18       (3) Delay in giving notice of dishonor is excused if the delay was  
19 caused by circumstances beyond the control of the person giving the  
20 notice and the person giving the notice exercised reasonable diligence  
21 after the cause of the delay ceased to operate.

22       **Sec. 64.** RCW 62A.3-505 and 1965 ex.s. c 157 s 3-505 are each  
23 amended to read as follows:

24       ~~((RIGHTS OF PARTY TO WHOM PRESENTMENT IS MADE. (1) The party~~  
25 ~~to whom presentment is made may without dishonor require~~

26       ~~(a) exhibition of the instrument; and~~

27       ~~(b) reasonable identification of the person making presentment and~~  
28 ~~evidence of his authority to make it if made for another; and~~

1       ~~(c) that the instrument be produced for acceptance or payment at a~~  
2 ~~place specified in it, or if there be none at any place reasonable in~~  
3 ~~the circumstances; and~~

4       ~~(d) a signed receipt on the instrument for any partial or full~~  
5 ~~payment and its surrender upon full payment.~~

6       ~~(2) Failure to comply with any such requirement invalidates the~~  
7 ~~presentment but the person presenting has a reasonable time in which to~~  
8 ~~comply and the time for acceptance or payment runs from the time of~~  
9 ~~compliance.)~~

10       EVIDENCE OF DISHONOR. (1) The following are admissible as evidence  
11 and create a presumption of dishonor and of any notice of dishonor  
12 stated:

13       (a) A document regular in form as provided in subsection (2) that  
14 purports to be a protest;

15       (b) A purported stamp or writing of the drawee, payor bank, or  
16 presenting bank on or accompanying the instrument stating that  
17 acceptance or payment has been refused unless reasons for the refusal  
18 are stated and the reasons are not consistent with dishonor;

19       (c) A book or record of the drawee, payor bank, or collecting bank,  
20 kept in the usual course of business which shows dishonor, even if  
21 there is no evidence of who made the entry.

22       (2) A protest is a certificate of dishonor made by a United States  
23 consul or vice-consul, or a notary public or other person authorized to  
24 administer oaths by the law of the place where dishonor occurs. It may  
25 be made upon information satisfactory to that person. The protest must  
26 identify the instrument and certify either that presentment has been  
27 made or, if not made, the reason why it was not made, and that the  
28 instrument has been dishonored by nonacceptance or nonpayment. The  
29 protest may also certify that notice of dishonor has been given to some  
30 or all parties.

PART 6

DISCHARGE AND PAYMENT

**Sec. 65.** RCW 62A.3-601 and 1965 ex.s. c 157 s 3-601 are each amended to read as follows:

~~((DISCHARGE OF PARTIES. — (1) The extent of the discharge of any party from liability on an instrument is governed by the sections on~~

~~(a) payment or satisfaction (RCW 62A.3-603); or~~

~~(b) tender of payment (RCW 62A.3-604); or~~

~~(c) cancellation or renunciation (RCW 62A.3-605); or~~

~~(d) impairment of right of recourse or of collateral (RCW 62A.3-606); or~~

~~(e) reacquisition of the instrument by a prior party (RCW 62A.3-208); or~~

~~(f) fraudulent and material alteration (RCW 62A.3-407); or~~

~~(g) certification of a check (RCW 62A.3-411); or~~

~~(h) acceptance varying a draft (RCW 62A.3-412); or~~

~~(i) unexcused delay in presentment or notice of dishonor or protest (RCW 62A.3-502).~~

~~(2) Any party is also discharged from his liability on an instrument to another party by any other act or agreement with such party which would discharge his simple contract for the payment of money.~~

~~(3) The liability of all parties is discharged when any party who has himself no right of action or recourse on the instrument~~

~~(a) reacquires the instrument in his own right; or~~

~~(b) is discharged under any provision of this Article, except as otherwise provided with respect to discharge for impairment of recourse or of collateral (RCW 62A.3-606).))~~

1 DISCHARGE AND EFFECT OF DISCHARGE. (1) The obligation of a party  
2 to pay the instrument is discharged as stated in this Article or by an  
3 act or agreement with the party which would discharge an obligation to  
4 pay money under a simple contract.

5 (2) Discharge of the obligation of a party is not effective against  
6 a person acquiring rights of a holder in due course of the instrument  
7 without notice of the discharge.

8 **Sec. 66.** RCW 62A.3-602 and 1965 ex.s. c 157 s 3-602 are each  
9 amended to read as follows:

10 ~~((EFFECT OF DISCHARGE AGAINST HOLDER IN DUE COURSE. N o~~  
11 ~~discharge of any party provided by this Article is effective against a~~  
12 ~~subsequent holder in due course unless he has notice thereof when he~~  
13 ~~takes the instrument.))~~

14 PAYMENT. (1) Subject to subsection (2), an instrument is paid to  
15 the extent payment is made (a) by or on behalf of a party obliged to  
16 pay the instrument, and (b) to a person entitled to enforce the  
17 instrument. To the extent of the payment, the obligation of the party  
18 obliged to pay the instrument is discharged even though payment is made  
19 with knowledge of a claim to the instrument under RCW 62A.3-306 by  
20 another person.

21 (2) The obligation of a party to pay the instrument is not  
22 discharged under subsection (1) if:

23 (a) A claim to the instrument under RCW 62A.3-306 is enforceable  
24 against the party receiving payment and (i) payment is made with  
25 knowledge by the payor that payment is prohibited by injunction or  
26 similar process of a court of competent jurisdiction, or (ii) in the  
27 case of an instrument other than a cashier's check, teller's check, or  
28 certified check, the party making payment accepted, from the person

1 having a claim to the instrument, indemnity against loss resulting from  
2 refusal to pay the person entitled to enforce the instrument; or

3 (b) The person making payment knows that the instrument is a stolen  
4 instrument and pays a person it knows is in wrongful possession of the  
5 instrument.

6 **Sec. 67.** RCW 62A.3-603 and 1965 ex.s. c 157 s 3-603 are each  
7 amended to read as follows:

8 ~~((PAYMENT OR SATISFACTION.——(1) The liability of any party is~~  
9 ~~discharged to the extent of his payment or satisfaction to the holder~~  
10 ~~even though it is made with knowledge of a claim of another person to~~  
11 ~~the instrument unless prior to such payment or satisfaction the person~~  
12 ~~making the claim either supplies indemnity deemed adequate by the party~~  
13 ~~seeking the discharge or enjoins payment or satisfaction by order of a~~  
14 ~~court of competent jurisdiction in an action in which the adverse~~  
15 ~~claimant and the holder are parties.—— This subsection does not,~~  
16 ~~however, result in the discharge of the liability~~

17 ~~(a) of a party who in bad faith pays or satisfies a holder who~~  
18 ~~acquired the instrument by theft or who (unless having the rights of a~~  
19 ~~holder in due course) holds through one who so acquired it; or~~

20 ~~(b) of a party (other than an intermediary bank or a payor bank~~  
21 ~~which is not a depositary bank) who pays or satisfies the holder of an~~  
22 ~~instrument which has been restrictively indorsed in a manner not~~  
23 ~~consistent with the terms of such restrictive indorsement.~~

24 ~~(2) Payment or satisfaction may be made with the consent of the~~  
25 ~~holder by any person including a stranger to the instrument. Surrender~~  
26 ~~of the instrument to such a person gives him the rights of a transferee~~  
27 ~~(RCW 62A.3-201).))~~

28 TENDER OF PAYMENT. (1) If tender of payment of an obligation to  
29 pay an instrument is made to a person entitled to enforce the



1 instrument, the effect of tender is governed by principles of law  
2 applicable to tender of payment under a simple contract.

3 (2) If tender of payment of an obligation to pay an instrument is  
4 made to a person entitled to enforce the instrument and the tender is  
5 refused, there is discharge, to the extent of the amount of the tender,  
6 of the obligation of an indorser or accommodation party having a right  
7 of recourse with respect to the obligation to which the tender relates.

8 (3) If tender of payment of an amount due on an instrument is made  
9 to a person entitled to enforce the instrument, the obligation of the  
10 obligor to pay interest after the due date on the amount tendered is  
11 discharged. If presentment is required with respect to an instrument  
12 and the obligor is able and ready to pay on the due date at every place  
13 of payment stated in the instrument, the obligor is deemed to have made  
14 tender of payment on the due date to the person entitled to enforce the  
15 instrument.

16 **Sec. 68.** RCW 62A.3-604 and 1965 ex.s. c 157 s 3-604 are each  
17 amended to read as follows:

18 ~~((TENDER OF PAYMENT. (1) Any party making tender of full~~  
19 ~~payment to a holder when or after it is due is discharged to the extent~~  
20 ~~of all subsequent liability for interest, costs and attorney's fees.~~

21 ~~(2) The holder's refusal of such tender wholly discharges any party~~  
22 ~~who has a right of recourse against the party making the tender.~~

23 ~~(3) Where the maker or acceptor of an instrument payable otherwise~~  
24 ~~than on demand is able and ready to pay at every place of payment~~  
25 ~~specified in the instrument when it is due, it is equivalent to~~  
26 ~~tender.))~~

27 DISCHARGE BY CANCELLATION OR RENUNCIATION. (1) A person entitled  
28 to enforce an instrument, with or without consideration, may discharge  
29 the obligation of a party to pay the instrument (a) by an intentional

1 voluntary act, such as surrender of the instrument to the party,  
2 destruction, mutilation, or cancellation of the instrument,  
3 cancellation or striking out of the party's signature, or the addition  
4 of words to the instrument indicating discharge, or (b) by agreeing not  
5 to sue or otherwise renouncing rights against the party by a signed  
6 writing.

7 (2) Cancellation or striking out of an indorsement pursuant to  
8 subsection (1) does not affect the status and rights of a party derived  
9 from the indorsement.

10 **Sec. 69.** RCW 62A.3-605 and 1965 ex.s. c 157 s 3-605 are each  
11 amended to read as follows:

12 ~~((CANCELLATION AND RENUNCIATION. (1) The holder of an~~  
13 ~~instrument may even without consideration discharge any party~~

14 ~~(a) in any manner apparent on the face of the instrument or the~~  
15 ~~indorsement, as by intentionally cancelling the instrument or the~~  
16 ~~party's signature by destruction or mutilation, or by striking out the~~  
17 ~~party's signature; or~~

18 ~~(b) by renouncing his rights by a writing signed and delivered or~~  
19 ~~by surrender of the instrument to the party to be discharged.~~

20 ~~(2) Neither cancellation nor renunciation without surrender of the~~  
21 ~~instrument affects the title thereto.))~~

22 DISCHARGE OF INDORSERS AND ACCOMMODATION PARTIES. (1) In this  
23 section, the term "indorser" includes a drawer having the obligation  
24 described in RCW 62A.3-414(4).

25 (2) Discharge, under RCW 62A.3-604, of the obligation of a party to  
26 pay an instrument does not discharge the obligation of an indorser or  
27 accommodation party having a right of recourse against the discharged  
28 party.

1       (3) If a person entitled to enforce an instrument agrees, with or  
2 without consideration, to an extension of the due date of the  
3 obligation of a party to pay the instrument, the extension discharges  
4 an indorser or accommodation party having a right of recourse against  
5 the party whose obligation is extended to the extent the indorser or  
6 accommodation party proves that the extension caused loss to the  
7 indorser or accommodation party with respect to the right of recourse.

8       (4) If a person entitled to enforce an instrument agrees, with or  
9 without consideration, to a material modification of the obligation of  
10 a party other than an extension of the due date, the modification  
11 discharges the obligation of an indorser or accommodation party having  
12 a right of recourse against the person whose obligation is modified to  
13 the extent the modification causes loss to the indorser or  
14 accommodation party with respect to the right of recourse. The loss  
15 suffered by the indorser or accommodation party as a result of the  
16 modification is equal to the amount of the right of recourse unless the  
17 person enforcing the instrument proves that no loss was caused by the  
18 modification or that the loss caused by the modification was an amount  
19 less than the amount of the right of recourse.

20       (5) If the obligation of a party to pay an instrument is secured by  
21 an interest in collateral and a person entitled to enforce the  
22 instrument impairs the value of the interest in collateral, the  
23 obligation of an indorser or accommodation party having a right of  
24 recourse against the obligor is discharged to the extent of the  
25 impairment. The value of an interest in collateral is impaired to the  
26 extent (a) the value of the interest is reduced to an amount less than  
27 the amount of the right of recourse of the party asserting discharge,  
28 or (b) the reduction in value of the interest causes an increase in the  
29 amount by which the amount of the right of recourse exceeds the value

1 of the interest. The burden of proving impairment is on the party  
2 asserting discharge.

3 (6) If the obligation of a party is secured by an interest in  
4 collateral not provided by an accommodation party and a person entitled  
5 to enforce the instrument impairs the value of the interest in  
6 collateral, the obligation of any party who is jointly and severally  
7 liable with respect to the secured obligation is discharged to the  
8 extent the impairment causes the party asserting discharge to pay more  
9 than that party would have been obliged to pay, taking into account  
10 rights of contribution, if impairment had not occurred. If the party  
11 asserting discharge is an accommodation party not entitled to discharge  
12 under subsection (5), the party is deemed to have a right to  
13 contribution based on joint and several liability rather than a right  
14 to reimbursement. The burden of proving impairment is on the party  
15 asserting discharge.

16 (7) Under subsection (5) or (6), impairing value of an interest in  
17 collateral includes (a) failure to obtain or maintain perfection or  
18 recordation of the interest in collateral, (b) release of collateral  
19 without substitution of collateral of equal value, (c) failure to  
20 perform a duty to preserve the value of collateral owed, under Article  
21 9 or other law, to a debtor or surety or other person secondarily  
22 liable, or (d) failure to comply with applicable law in disposing of  
23 collateral.

24 (8) An accommodation party is not discharged under subsection (3),  
25 (4), or (5) unless the person entitled to enforce the instrument knows  
26 of the accommodation or has notice under RCW 62A.3-419(3) that the  
27 instrument was signed for accommodation.

28 (9) A party is not discharged under this section if (a) the party  
29 asserting discharge consents to the event or conduct that is the basis  
30 of the discharge, or (b) the instrument or a separate agreement of the

1 party provides for waiver of discharge under this section either  
2 specifically or by general language indicating that parties waive  
3 defenses based on suretyship or impairment of collateral.

4 NEW SECTION. **Sec. 70.** The following acts or parts of acts are  
5 each repealed:

- 6 (1) RCW 62A.3-120 and 1965 ex.s. c 157 s 3-120;
- 7 (2) RCW 62A.3-121 and 1965 ex.s. c 157 s 3-121;
- 8 (3) RCW 62A.3-122 and 1965 ex.s. c 157 s 3-122;
- 9 (4) RCW 62A.3-208 and 1965 ex.s. c 157 s 3-208;
- 10 (5) RCW 62A.3-506 and 1965 ex.s. c 157 s 3-506;
- 11 (6) RCW 62A.3-507 and 1965 ex.s. c 157 s 3-507;
- 12 (7) RCW 62A.3-508 and 1965 ex.s. c 157 s 3-508;
- 13 (8) RCW 62A.3-509 and 1965 ex.s. c 157 s 3-509;
- 14 (9) RCW 62A.3-510 and 1965 ex.s. c 157 s 3-510;
- 15 (10) RCW 62A.3-511 and 1965 ex.s. c 157 s 3-511;
- 16 (11) RCW 62A.3-512 and 1990 c 203 s 2;
- 17 (12) RCW 62A.3-515 and 1986 c 128 s 1, 1981 c 254 s 1, 1969 c 62 s  
18 1, & 1967 ex.s. c 23 s 1;
- 19 (13) RCW 62A.3-520 and 1986 c 128 s 2, 1981 c 254 s 2, & 1969 c 62  
20 s 2;
- 21 (14) RCW 62A.3-522 and 1981 c 254 s 3;
- 22 (15) RCW 62A.3-525 and 1981 c 254 s 4 & 1969 c 62 s 3;
- 23 (16) RCW 62A.3-606 and 1965 ex.s. c 157 s 3-606;
- 24 (17) RCW 62A.3-701 and 1965 ex.s. c 157 s 3-701;
- 25 (18) RCW 62A.3-801 and 1965 ex.s. c 157 s 3-801;
- 26 (19) RCW 62A.3-802 and 1965 ex.s. c 157 s 3-802;
- 27 (20) RCW 62A.3-803 and 1965 ex.s. c 157 s 3-803;
- 28 (21) RCW 62A.3-804 and 1965 ex.s. c 157 s 3-804; and
- 29 (22) RCW 62A.3-805 and 1965 ex.s. c 157 s 3-805.

1 ARTICLE 4

2 BANK DEPOSITS AND COLLECTIONS

3 PART 1

4 GENERAL PROVISIONS AND DEFINITIONS

5 **Sec. 71.** RCW 62A.4-101 and 1965 ex.s. c 157 s 4-101 are each  
6 amended to read as follows:

7 SHORT TITLE. This Article (~~((shall be known and))~~) may be cited  
8 as Uniform Commercial Code--Bank Deposits and Collections.

9 **Sec. 72.** RCW 62A.4-102 and 1965 ex.s. c 157 s 4-102 are each  
10 amended to read as follows:

11 APPLICABILITY. (1) To the extent that items within this Article  
12 are also within (~~((the scope of))~~) Articles 3 and 8, they are subject to  
13 (~~((the provisions of))~~) those Articles. (~~((In the event of))~~) If there is  
14 conflict (~~((the provisions of))~~), this Article governs (~~((those of))~~)  
15 Article 3, but (~~((the provisions of))~~) Article 8 governs (~~((those of))~~)  
16 this Article.

17 (2) The liability of a bank for action or non-action with respect  
18 to (~~((any))~~) an item handled by it for purposes of presentment, payment,  
19 or collection is governed by the law of the place where the bank is  
20 located. In the case of action or non-action by or at a branch or  
21 separate office of a bank, its liability is governed by the law of the  
22 place where the branch or separate office is located.

23 **Sec. 73.** RCW 62A.4-103 and 1965 ex.s. c 157 s 4-103 are each  
24 amended to read as follows:

25 VARIATION BY AGREEMENT; MEASURE OF DAMAGES; (~~((CERTAIN))~~) ACTION  
26 CONSTITUTING ORDINARY CARE. (1) The effect of the provisions of this  
27 Article may be varied by agreement (~~((except that no agreement can))~~),

1 but the parties to the agreement cannot disclaim a bank's  
2 responsibility for its ~~((own))~~ lack of good faith or failure to  
3 exercise ordinary care or ~~((can))~~ limit the measure of damages for  
4 ~~((such))~~ the lack or failure~~((; but))~~. However, the parties may  
5 determine by agreement ~~((determine))~~ the standards by which ~~((such))~~  
6 the bank's responsibility is to be measured if ~~((such))~~ those standards  
7 are not manifestly unreasonable.

8 (2) Federal Reserve regulations and operating ~~((letters))~~  
9 circulars, clearing-house rules, and the like~~((;))~~ have the effect of  
10 agreements under subsection (1), whether or not specifically assented  
11 to by all parties interested in items handled.

12 (3) Action or non-action approved by this Article or pursuant to  
13 Federal Reserve regulations or operating ~~((letters—constitutes))~~  
14 circulars is the exercise of ordinary care and, in the absence of  
15 special instructions, action or non-action consistent with clearing-  
16 house rules and the like or with a general banking usage not  
17 disapproved by this Article, is prima facie ~~((constitutes))~~ the  
18 exercise of ordinary care.

19 (4) The specification or approval of certain procedures by this  
20 Article ~~((does))~~ is not ~~((constitute))~~ disapproval of other procedures  
21 ~~((which))~~ that may be reasonable under the circumstances.

22 (5) The measure of damages for failure to exercise ordinary care in  
23 handling an item is the amount of the item reduced by an amount  
24 ~~((which))~~ that could not have been realized by the ~~((use))~~ exercise of  
25 ordinary care~~((; and where))~~. If there is also bad faith it includes  
26 any other damages~~((; if any, suffered by))~~ the party suffered as a  
27 proximate consequence.

28 **Sec. 74.** RCW 62A.4-104 and 1981 c 122 s 1 are each amended to read  
29 as follows:

1           DEFINITIONS AND INDEX OF DEFINITIONS.           (1) In this Article,  
2 unless the context otherwise requires:

3           (a) "Account" means any deposit or credit account with a bank (~~and~~  
4 ~~includes~~), including a (checking) demand, time, (interest or)  
5 savings, passbook, share draft, or like account, other than an account  
6 evidenced by a certificate of deposit;

7           (b) "Afternoon" means the period of a day between noon and  
8 midnight;

9           (c) "Banking day" means (~~that~~) the part of (any) a day on which  
10 a bank is open to the public for carrying on substantially all of its  
11 banking functions, except that it shall not include a Saturday, Sunday,  
12 or legal holiday;

13           (d) "Clearing house" means (~~any~~) an association of banks or other  
14 payors regularly clearing items;

15           (e) "Customer" means (~~any~~) a person having an account with a bank  
16 or for whom a bank has agreed to collect items (and includes),  
17 including a bank (carrying) that maintains an account (with) at  
18 another bank;

19           (f) "Documentary draft" means (~~any negotiable or non-negotiable~~  
20 ~~draft with accompanying documents, securities or other papers to be~~  
21 ~~delivered against honor of the draft~~) a draft to be presented for  
22 acceptance or payment if specified documents, certificated securities  
23 (RCW 62A.8-102) or instructions for uncertificated securities (RCW  
24 62A.8-308), or other certificates, statements, or the like are to be  
25 received by the drawee or other payor before acceptance or payment of  
26 the draft;

27           (g) "Draft" means a draft as defined in RCW 62A.3-104 or an item,  
28 other than an instrument, that is an order;

29           (h) "Drawee" means a person ordered in a draft to make payment;



1       ~~((g))~~ (i) "Item" means ~~((any))~~ an instrument ~~((for the))~~ or a  
2 promise or order to pay money handled by a bank for collection or  
3 payment ~~((of money even though it is not negotiable but does not~~  
4 ~~include money))~~. The term does not include a payment order governed by  
5 Article 4A (H-0690/91) or a credit or debit card slip;

6       ~~((h))~~ (j) "Midnight deadline" with respect to a bank is midnight  
7 on its next banking day following the banking day on which it receives  
8 the relevant item or notice or from which the time for taking action  
9 commences to run, whichever is later;

10       ~~((i))~~ "Properly payable" ~~includes the availability of funds for~~  
11 ~~payment at the time of decision to pay or dishonor;~~

12       ~~(j))~~ (k) "Settle" means to pay in cash, by clearing-house  
13 settlement, in a charge or credit or by remittance, or otherwise as  
14 ~~((instructed))~~ agreed. A settlement may be either provisional or  
15 final;

16       ~~((k))~~ (l) "Suspends payments" with respect to a bank means that  
17 it has been closed by order of the supervisory authorities, that a  
18 public officer has been appointed to take it over or that it ceases or  
19 refuses to make payments in the ordinary course of business.

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

22       "Agreement for electronic presentment" section 80 of this act.

23       "Bank" RCW 62A.4-105.

24       "Collecting bank" RCW 62A.4-105.

25       "Depository bank" RCW 62A.4-105.

26       "Intermediary bank" RCW 62A.4-105.

27       "Payor bank" RCW 62A.4-105.

28       "Presenting bank" RCW 62A.4-105.

29       ~~(( "Remitting bank" RCW 62A.4-105.))~~

30       "Presentment notice" section 80 of this act.

1 (3) The following definitions in other Articles apply to this  
2 Article:

3 "Acceptance" RCW (~~(62A.3-410)~~) 62A.3-409.

4 "Alteration" RCW 62A.3-407.

5 "Cashier's check" RCW 62A.3-104.

6 "Certificate of deposit" RCW 62A.3-104.

7 (~~("Certification" RCW 62A.3-411.)~~)

8 "Certified check" RCW 62A.3-409.

9 "Check" RCW 62A.3-104.

10 "Draft" RCW 62A.3-104.

11 "Good faith" RCW 62A.3-103.

12 "Holder in due course" RCW 62A.3-302.

13 "Instrument" RCW 62A.3-104.

14 "Notice of dishonor" RCW (~~(62A.3-508)~~) 62A.3-503.

15 "Order" RCW 62A.3-103.

16 "Ordinary care" RCW 62A.3-103.

17 "Person entitled to enforce" RCW 62A.3-301.

18 "Presentment" RCW (~~(62A.3-504)~~) 62A.3-501.

19 "Promise" RCW 62A.3-103.

20 (~~("Protest" RCW 62A.3-509.)~~)

21 "Prove" RCW 62A.3-103.

22 (~~("Secondary party" RCW 62A.3-102.)~~)

23 "Teller's check" RCW 62A.3-104.

24 "Unauthorized signature" RCW 62A.3-403.

25 (4) In addition Article 1 contains general definitions and  
26 principles of construction and interpretation applicable throughout  
27 this Article.

28 **Sec. 75.** RCW 62A.4-105 and 1965 ex.s. c 157 s 4-105 are each  
29 amended to read as follows:



1 (2) If an item states that it is "payable at" a bank identified in  
2 the item, the item is equivalent to a draft drawn on the bank.

3 **Alternative B**

4 (2) If an item states that it is "payable at" a bank identified in  
5 the item, (a) the item designates the bank as a collecting bank and  
6 does not by itself authorize the bank to pay the item, and (b) the item  
7 may be presented for payment only by or through the bank.

8 (3) If a draft names a nonbank drawee and it is unclear whether a  
9 bank named in the draft is a codrawee or a collecting bank, the bank is  
10 a collecting bank.

11 **Sec. 77.** RCW 62A.4-106 and 1965 ex.s. c 157 s 4-106 are each  
12 amended to read as follows:

13 SEPARATE OFFICE OF A BANK. A branch or separate office of a  
14 bank is a separate bank for the purpose of computing the time within  
15 which and determining the place at or to which action may be taken or  
16 notices or orders (~~shall~~) must be given under this Article and under  
17 Article 3.

18 **Sec. 78.** RCW 62A.4-107 and 1965 ex.s. c 157 s 4-107 are each  
19 amended to read as follows:

20 TIME OF RECEIPT OF ITEMS. (1) For the purpose of allowing  
21 time to process items, prove balances, and make the necessary entries  
22 on its books to determine its position for the day, a bank may fix an  
23 afternoon hour of two P.M. or later as a cut-off hour for the handling  
24 of money and items and the making of entries on its books.

25 (2) (~~Any~~) A item or deposit of money received on any day after a  
26 cut-off hour so fixed or after the close of the banking day may be  
27 treated as being received at the opening of the next banking day.

1       **Sec. 79.** RCW 62A.4-108 and 1965 ex.s. c 157 s 4-108 are each  
2 amended to read as follows:

3       DELAYS.       (1) Unless otherwise instructed, a collecting bank in  
4 a good faith effort to secure payment (~~((may, in the case))~~) of a  
5 specific item(~~((s))~~) drawn on a payor other than a bank, and with or  
6 without the approval of any person involved, may waive, modify, or  
7 extend time limits imposed or permitted by this Title for a period not  
8 (~~((in excess of an))~~) exceeding two additional banking days without  
9 discharge of (~~((secondary parties and without))~~) drawers or indorsers or  
10 liability to its transferor or (~~((any))~~) a prior party.

11       (2) Delay by a collecting bank or payor bank beyond time limits  
12 prescribed or permitted by this Title or by instructions is excused if  
13 (a) the delay is caused by interruption of communication or computer  
14 facilities, suspension of payments by another bank, war, emergency  
15 conditions, failure of equipment, or other circumstances beyond the  
16 control of the bank (~~((provided it))~~), and (b) the bank exercises such  
17 diligence as the circumstances require.

18       NEW SECTION.   **Sec. 80.** A new section is added to Article 4 of  
19 Title 62A RCW to read as follows:

20       ELECTRONIC PRESENTMENT.       (1)       "Agreement       for       electronic  
21 presentment" means an agreement, clearing-house rule, or Federal  
22 Reserve regulation or operating circular, providing that presentment of  
23 an item may be made by transmission of an image of an item or  
24 information describing the item ("presentment notice") rather than  
25 delivery of the item itself. The agreement may provide for procedures  
26 governing retention, presentment, payment, dishonor, and other matters  
27 concerning items subject to the agreement.

28       (2) Presentment of an item pursuant to an agreement for presentment  
29 is made when the presentment notice is received.

1 (3) If presentment is made by presentment notice, a reference to  
2 "item" or "check" in this Article means the presentment notice unless  
3 the context otherwise indicates.

4 NEW SECTION. **Sec. 81.** A new section is added to Article 4 of  
5 Title 62A RCW to read as follows:

6 STATUTE OF LIMITATIONS. An action to enforce an obligation,  
7 duty, or right arising under this Article must be commenced within  
8 three years after the cause of action accrues.

9 PART 2

10 COLLECTION OF ITEMS:

11 DEPOSITORY AND COLLECTING BANKS

12 **Sec. 82.** RCW 62A.4-201 and 1965 ex.s. c 157 s 4-201 are each  
13 amended to read as follows:

14 (~~(PRESUMPTION AND DURATION OF AGENCY)~~) STATUS OF COLLECTING  
15 BANK(S) AS AGENT AND PROVISIONAL STATUS OF CREDITS; APPLICABILITY OF  
16 ARTICLE; ITEM INDORSED "PAY ANY BANK". (1) Unless a contrary intent  
17 clearly appears and (~~(prior to)~~) before the time that a settlement  
18 given by a collecting bank for an item is or becomes final  
19 (~~((subsection (3) of RCW 62A.4-211 and RCW 62A.4-212 and RCW 62A.4-~~  
20 ~~213))~~), the bank, with respect to the item, is an agent or sub-agent of  
21 the owner of the item and any settlement given for the item is  
22 provisional. This provision applies regardless of the form of  
23 indorsement or lack of indorsement and even though credit given for the  
24 item is subject to immediate withdrawal as of right or is in fact  
25 withdrawn; but the continuance of ownership of an item by its owner and  
26 any rights of the owner to proceeds of the item are subject to rights  
27 of a collecting bank such as those resulting from outstanding advances

1 on the item and ~~((valid))~~ rights of recoupment or setoff. ~~((When))~~ If  
2 an item is handled by banks for purposes of presentment, payment  
3 ~~((and))~~, collection, or return, the relevant provisions of this Article  
4 apply even though action of the parties clearly establishes that a  
5 particular bank has purchased the item and is the owner of it.

6 (2) After an item has been indorsed with the words "pay any bank"  
7 or the like, only a bank may acquire the rights of a holder until the  
8 item has been:

9 (a) ~~((until the item has been))~~ Returned to the customer initiating  
10 collection; or

11 (b) ~~((until the item has been))~~ Specially indorsed by a bank to a  
12 person who is not a bank.

13 **Sec. 83.** RCW 62A.4-202 and 1965 ex.s. c 157 s 4-202 are each  
14 amended to read as follows:

15 RESPONSIBILITY FOR COLLECTION OR RETURN; WHEN ACTION ~~((SEASONABLE))~~  
16 TIMELY. (1) A collecting bank must ~~((use))~~ exercise ordinary care  
17 in:

18 (a) Presenting an item or sending it for presentment; ~~((and))~~

19 (b) Sending notice of dishonor or non-payment or returning an item  
20 other than a documentary draft to the bank's transferor ~~((or directly~~  
21 ~~to the depository bank under subsection (2) of RCW 62A.4-212))~~ after  
22 learning that the item has not been paid or accepted, as the case may  
23 be; ~~((and))~~

24 (c) Settling for an item when the bank receives final settlement;  
25 and

26 ~~((making or providing for any necessary protest; and~~

27 ~~(e)))~~ Notifying its transferor of any loss or delay in transit  
28 within a reasonable time after discovery thereof.

1       (2) (~~(A collecting bank taking proper action before its midnight~~  
2 ~~deadline following receipt of an item, notice or payment acts~~  
3 ~~seasonably; taking proper action within a reasonably longer time may be~~  
4 ~~seasonable but the bank has the burden of so establishing.)) A  
5 collecting bank exercises ordinary care under subsection (1) by taking  
6 proper action before its midnight deadline following receipt of an  
7 item, notice, or settlement. Taking proper action within a reasonably  
8 longer time may constitute the exercise of ordinary care, but the bank  
9 has the burden of establishing timeliness.~~

10       (3) Subject to subsection (1)(a), a bank is not liable for the  
11 insolvency, neglect, misconduct, mistake or default of another bank or  
12 person or for loss or destruction of an item in the possession of  
13 others or in transit (~~(or in the possession of others)~~).

14       **Sec. 84.** RCW 62A.4-203 and 1965 ex.s. c 157 s 4-203 are each  
15 amended to read as follows:

16       EFFECT OF INSTRUCTIONS.       Subject to (~~(the provisions of)~~) Article  
17 3 concerning conversion of instruments (~~((RCW 62A.3-419))~~) (RCW 62A.3-  
18 420 (section 59 of this act)) and (~~(the provisions of both Article 3~~  
19 ~~and this Article concerning)~~) restrictive indorsements (RCW 62A.3-206),  
20 only a collecting bank's transferor can give instructions (~~(which)~~)  
21 that affect the bank or constitute notice to it, and a collecting bank  
22 is not liable to prior parties for any action taken pursuant to  
23 (~~(such)~~) the instructions or in accordance with any agreement with its  
24 transferor.

25       **Sec. 85.** RCW 62A.4-204 and 1965 ex.s. c 157 s 4-204 are each  
26 amended to read as follows:

27       METHODS OF SENDING AND PRESENTING; SENDING (~~(DIRECT)~~) DIRECTLY TO  
28 PAYOR BANK.       (1) A collecting bank (~~(must)~~) shall send items by a



1 reasonably prompt method, taking into consideration ((any)) relevant  
2 instructions, the nature of the item, the number of ((such)) those  
3 items on hand, ((and)) the cost of collection involved, and the method  
4 generally used by it or others to present ((such)) those items.

5 (2) A collecting bank may send:

6 (a) ((any)) An item ((direct)) directly to the payor bank;

7 (b) ((any)) An item to ((any)) a non-bank payor if authorized by  
8 its transferor; and

9 (c) ((any)) An item other than documentary drafts to ((any)) a non-  
10 bank payor, if authorized by Federal Reserve regulation or operating  
11 ((letter)) circular, clearing-house rule, or the like.

12 (3) Presentment may be made by a presenting bank or other payor at  
13 a place where the payor bank has requested that presentment be made.

14 **Sec. 86.** RCW 62A.4-205 and 1965 ex.s. c 157 s 4-205 are each  
15 amended to read as follows:

16 ((SUPPLYING—MISSING—INDORSEMENT;—NO—NOTICE—FROM—PRIOR  
17 INDORSEMENT.)) DEPOSITARY BANK HOLDER OF UNINDORSED ITEM.

18 If a customer delivers an item to a depositary bank for collection:

19 (1) ((A depositary bank which has taken an item for collection may  
20 supply any indorsement of the customer which is necessary to title  
21 unless the item contains the words "payee's indorsement required" or  
22 the like. In the absence of such a requirement a statement placed on  
23 the item by the depositary bank to the effect that the item was  
24 deposited by a customer or credited to his account is effective as the  
25 customer's indorsement.

26 (2) An intermediary bank, or payor bank which is not a depositary  
27 bank, is neither given notice nor otherwise affected by a restrictive  
28 indorsement of any person except the bank's immediate transferor.)) The  
29 depositary bank becomes a holder of the item at the time it receives

1 the item for collection if the customer at the time of delivery was a  
2 holder of the item, whether or not the customer indorses the item, and,  
3 if the bank satisfies the other requirements of RCW 62A.3-302, it is a  
4 holder in due course; and

5 (2) The depositary bank warrants to collecting banks, the payor  
6 bank or other payor, and the drawer that the amount of the item was  
7 paid to the customer or deposited to the customer's account.

8 **Sec. 87.** RCW 62A.4-206 and 1965 ex.s. c 157 s 4-206 are each  
9 amended to read as follows:

10 TRANSFER BETWEEN BANKS. Any agreed method ((which)) that  
11 identifies the transferor bank is sufficient for the item's further  
12 transfer to another bank.

13 **Sec. 88.** RCW 62A.4-207 and 1965 ex.s. c 157 s 4-207 are each  
14 amended to read as follows:

15 ~~TRANSFER WARRANTIES ((OF CUSTOMER AND COLLECTING BANK ON TRANSFER~~  
16 ~~OR PRESENTMENT OF ITEMS; TIME FOR CLAIMS)). (1) ((Each customer or~~  
17 ~~collecting bank who obtains payment or acceptance of an item and each~~  
18 ~~prior customer and collecting bank warrants to the payor bank or other~~  
19 ~~payor who in good faith pays or accepts the item that~~

20 ~~(a) he has a good title to the item or is authorized to obtain~~  
21 ~~payment or acceptance on behalf of one who has a good title; and~~

22 ~~(b) he has no knowledge that the signature of the maker or drawer~~  
23 ~~is unauthorized, except that this warranty is not given by any customer~~  
24 ~~or collecting bank that is a holder in due course and acts in good~~  
25 ~~faith~~

26 ~~(i) to a maker with respect to the maker's own signature; or~~

27 ~~(ii) to a drawer with respect to the drawer's own signature,~~  
28 ~~whether or not the drawer is also the drawee; or~~

1       ~~(iii) to an acceptor of an item if the holder in due course took~~  
2 ~~the item after the acceptance or obtained the acceptance without~~  
3 ~~knowledge that the drawer's signature was unauthorized; and~~

4       ~~(c) the item has not been materially altered, except that this~~  
5 ~~warranty is not given by any customer or collecting bank that is a~~  
6 ~~holder in due course and acts in good faith~~

7       ~~(i) to the maker of a note; or~~

8       ~~(ii) to the drawer of a draft whether or not the drawer is also the~~  
9 ~~drawee; or~~

10       ~~(iii) to the acceptor of an item with respect to an alteration made~~  
11 ~~prior to the acceptance if the holder in due course took the item after~~  
12 ~~the acceptance, even though the acceptance provided "payable as~~  
13 ~~originally drawn" or equivalent terms; or~~

14       ~~(iv) to the acceptor of an item with respect to an alteration made~~  
15 ~~after the acceptance.~~

16       ~~(2) Each customer and collecting bank who transfers an item and~~  
17 ~~receives a settlement or other consideration for it warrants to his~~  
18 ~~transferee and to any subsequent collecting bank who takes the item in~~  
19 ~~good faith that~~

20       ~~(a) he has a good title to the item or is authorized to obtain~~  
21 ~~payment or acceptance on behalf of one who has a good title and the~~  
22 ~~transfer is otherwise rightful; and~~

23       ~~(b) all signatures are genuine or authorized; and~~

24       ~~(c) the item has not been materially altered; and~~

25       ~~(d) no defense of any party is good against him; and~~

26       ~~(e) he has no knowledge of any insolvency proceeding instituted~~  
27 ~~with respect to the maker or acceptor or the drawer of an unaccepted~~  
28 ~~item.~~

29 ~~In addition each customer and collecting bank so transferring an item~~  
30 ~~and receiving a settlement or other consideration engages that upon~~

1 ~~dishonor and any necessary notice of dishonor and protest he will take~~  
2 ~~up the item.~~

3 ~~(3) The warranties and the engagement to honor set forth in the two~~  
4 ~~preceding subsections arise notwithstanding the absence of indorsement~~  
5 ~~or words of guaranty or warranty in the transfer or presentment and a~~  
6 ~~collecting bank remains liable for their breach despite remittance to~~  
7 ~~its transferor. Damages for breach of such warranties or engagement to~~  
8 ~~honor shall not exceed the consideration received by the customer or~~  
9 ~~collecting bank responsible plus finance charges and expenses related~~  
10 ~~to the item, if any.~~

11 ~~(4) Unless a claim for breach of warranty under this section is~~  
12 ~~made within a reasonable time after the person claiming learns of the~~  
13 ~~breach, the person liable is discharged to the extent of any loss~~  
14 ~~caused by the delay in making claim.))~~ A customer or collecting bank  
15 that transfers an item and receives a settlement or other consideration  
16 warrants to the transferee and to any subsequent collecting bank that:

17 (a) The warrantor is a person entitled to enforce the item;

18 (b) All signatures on the item are authentic and authorized;

19 (c) The item has not been altered;

20 (d) The item is not subject to a defense or claim in recoupment  
21 (RCW 62A.3-305(1)) of any party that can be asserted against the  
22 warrantor; and

23 (e) The warrantor has no knowledge of any insolvency proceeding  
24 commenced with respect to the maker or acceptor or, in the case of an  
25 unaccepted draft, the drawer.

26 (2) If an item is dishonored, a customer or collecting bank  
27 transferring the item and receiving settlement or other consideration  
28 is obliged to pay the amount due on the item (a) according to the terms  
29 of the item at the time it was transferred, or (b) if the transfer was  
30 of an incomplete item, according to its terms when completed as stated

1 in RCW 62A.3-115 and 62A.3-407. The obligation of a transferor is owed  
2 to the transferee and to any subsequent collecting bank that takes the  
3 item in good faith. A transferor cannot disclaim its obligation under  
4 this subsection by an indorsement stating that it is made "without  
5 recourse" or otherwise disclaiming liability.

6 (3) A person to whom the warranties under subsection (1) are made  
7 and who took the item in good faith may recover from the warrantor as  
8 damages for breach of warranty an amount equal to the loss suffered as  
9 a result of the breach, but not more than the amount of the item plus  
10 expenses and loss of interest incurred as a result of the breach.

11 (4) The warranties stated in subsection (1) cannot be disclaimed  
12 with respect to checks. Unless notice of a claim for breach of  
13 warranty is given to the warrantor within thirty days after the  
14 claimant has reason to know of the breach and the identity of the  
15 warrantor, the warrantor is discharged to the extent of any loss caused  
16 by the delay in giving notice of the claim.

17 (5) A cause of action for breach of warranty under this section  
18 accrues when the claimant has reason to know of the breach.

19 NEW SECTION. Sec. 89. A new section is added to Article 4 of  
20 Title 62A RCW to read as follows:

21 PRESENTMENT WARRANTIES. (1) If an unaccepted draft is presented  
22 to the drawee for payment or acceptance and the drawee pays or accepts  
23 the draft, (a) the person obtaining payment or acceptance, at the time  
24 of presentment, and (b) a previous transferor of the draft, at the time  
25 of transfer, warrant to the drawee that pays or accepts the draft in  
26 good faith that:

27 (i) The warrantor is, or was, at the time the warrantor transferred  
28 the draft, a person entitled to enforce the draft or authorized to

1 obtain payment or acceptance of the draft on behalf of a person  
2 entitled to enforce the draft;

3 (ii) The draft has not been altered; and

4 (iii) The warrantor has no knowledge that the signature of the  
5 purported drawer of the draft is unauthorized.

6 (2) A drawee making payment may recover from a warrantor damages  
7 for breach of warranty equal to the amount paid by the drawee less the  
8 amount the drawee received or is entitled to receive from the drawer  
9 because of the payment. In addition, the drawee is entitled to  
10 compensation for expenses and loss of interest resulting from the  
11 breach. The right of the drawee to recover damages under this  
12 subsection is not affected by any failure of the drawee to exercise  
13 ordinary care in making payment. If the drawee accepts the draft (a)  
14 breach of warranty is a defense to the obligation of the acceptor, and  
15 (b) if the acceptor makes payment with respect to the draft, the  
16 acceptor is entitled to recover from a warrantor for breach of warranty  
17 the amounts stated in this subsection.

18 (3) If a drawee asserts a claim for breach of warranty under  
19 subsection (1) based on an unauthorized indorsement of the draft or an  
20 alteration of the draft, the warrantor may defend by proving that the  
21 indorsement is effective under RCW 62A.3-404 or 62A.3-405 or the drawer  
22 is precluded under RCW 62A.3-406 or 62A.4-406 from asserting against  
23 the drawee the unauthorized indorsement or alteration.

24 (4) If (a) a dishonored draft is presented for payment to the  
25 drawer or an indorser or (b) any other item is presented for payment to  
26 a party obliged to pay the item, and the item is paid, the person  
27 obtaining payment and a prior transferor of the item warrant to the  
28 person making payment in good faith that the warrantor is, or was, at  
29 the time the warrantor transferred the item, a person entitled to  
30 enforce the item or authorized to obtain payment on behalf of a person

1 entitled to enforce the item. The person making payment may recover  
2 from any warrantor for breach of warranty an amount equal to the amount  
3 paid plus expenses and loss of interest resulting from the breach.

4 (5) The warranties stated in subsections (1) and (2) cannot be  
5 disclaimed with respect to checks. Unless notice of a claim for breach  
6 of warranty is given to the warrantor within thirty days after the  
7 claimant has reason to know of the breach and the identity of the  
8 warrantor, the warrantor is discharged to the extent of any loss caused  
9 by the delay in giving notice of the claim.

10 (6) A cause of action for breach of warranty under this section  
11 accrues when the claimant has reason to know of the breach.

12 NEW SECTION. **Sec. 90.** A new section is added to Article 4 of  
13 Title 62A RCW to read as follows:

14 ENCODING AND RETENTION WARRANTIES. (1) A person who encodes  
15 information on or with respect to an item after issue warrants to any  
16 subsequent collecting bank and to the payor bank or other payor that  
17 the information is correctly encoded. If the customer of a depository  
18 bank encodes, that bank also makes the warranty.

19 (2) A person who undertakes to retain an item pursuant to an  
20 agreement for electronic presentment warrants to any subsequent  
21 collecting bank and to the payor bank or other payor that retention and  
22 presentment of the item comply with the agreement. If a customer of a  
23 depository bank undertakes to retain an item, that bank also makes this  
24 warranty.

25 (3) A person to whom warranties are made under this section and who  
26 took the item in good faith may recover from the warrantor as damages  
27 for breach of warranty an amount equal to the loss suffered as a result  
28 of the breach, plus expenses and loss of interest incurred as a result  
29 of the breach.

1       **Sec. 91.**   RCW 62A.4-208 and 1965 ex.s. c 157 s 4-208 are each  
2 amended to read as follows:

3       SECURITY INTEREST OF COLLECTING BANK IN ITEMS, ACCOMPANYING  
4 DOCUMENTS AND PROCEEDS.   (1) A collecting bank has a security interest

5 in an item and any accompanying documents or the proceeds of either:

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

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

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

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

18       (3) Receipt by a collecting bank of a final settlement for an item  
19 is a realization on its security interest in the item, accompanying  
20 documents, and proceeds. (~~((To the extent and))~~) So long as the bank  
21 does not receive final settlement for the item or give up possession of  
22 the item or accompanying documents for purposes other than collection,  
23 the security interest continues to that extent and is subject to (~~((the~~  
24 ~~provisions of))~~) Article 9 (~~((except that))~~), but:

25       (a) No security agreement is necessary to make the security  
26 interest enforceable (subsection (1)(b) of RCW 62A.9-203); (~~((and))~~)

27       (b) No filing is required to perfect the security interest; and

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



1       **Sec. 92.** RCW 62A.4-209 and 1965 ex.s. c 157 s 4-209 are each  
2 amended to read as follows:

3       WHEN BANK GIVES VALUE FOR PURPOSES OF HOLDER IN DUE COURSE. For  
4 purposes of determining its status as a holder in due course, ((the))  
5 bank has given value to the extent ((that)) it has a security interest  
6 in an item ((provided that)), if the bank otherwise complies with the  
7 requirements of RCW 62A.3-302 on what constitutes a holder in due  
8 course.

9       **Sec. 93.** RCW 62A.4-210 and 1965 ex.s. c 157 s 4-210 are each  
10 amended to read as follows:

11       PRESENTMENT BY NOTICE OF ITEM NOT PAYABLE BY, THROUGH, OR AT A  
12 BANK; LIABILITY OF ((SECONDARY PARTIES)) DRAWER OR INDORSER. (1)

13 Unless otherwise instructed, a collecting bank may present an item not  
14 payable by, through or at a bank by sending to the party to accept or  
15 pay a written notice that the bank holds the item for acceptance or  
16 payment. The notice must be sent in time to be received on or before  
17 the day when presentment is due and the bank must meet any requirement  
18 of the party to accept or pay under RCW ((62A.3-505)) 62A.3-501 by the  
19 close of the bank's next banking day after it knows of the requirement.

20       (2) ((Where)) If presentment is made by notice and ((neither honor  
21 nor)) payment, acceptance, or request for compliance with a requirement  
22 under RCW ((62A.3-505)) 62A.3-501 is not received by the close of  
23 business on the day after maturity or, in the case of demand items, by  
24 the close of business on the third banking day after notice was sent,  
25 the presenting bank may treat the item as dishonored and charge any  
26 ((secondary party)) drawer or indorser by sending ((him)) it notice of  
27 the facts.

1       **Sec. 94.**   RCW 62A.4-211 and 1965 ex.s. c 157 s 4-211 are each  
2 amended to read as follows:

3       (~~(MEDIA OF REMITTANCE; PROVISIONAL)~~) MEDIUM AND (~~(FINAL)~~) TIME OF  
4 SETTLEMENT (~~(IN REMITTANCE CASES)~~) BY BANK.   (1) (~~(A collecting bank~~  
5 ~~may take in settlement of an item~~

6       (a) ~~a check of the remitting bank or of another bank on any bank~~  
7 ~~except the remitting bank; or~~

8       (b) ~~a cashier's check or similar primary obligation of a remitting~~  
9 ~~bank which is a member of or clears through a member of the same~~  
10 ~~clearing house or group as the collecting bank; or~~

11       (c) ~~appropriate authority to charge an account of the remitting~~  
12 ~~bank or of another bank with the collecting bank; or~~

13       (d) ~~if the item is drawn upon or payable by a person other than a~~  
14 ~~bank, a cashier's check, certified check or other bank check or~~  
15 ~~obligation.~~

16       (2) ~~If before its midnight deadline the collecting bank properly~~  
17 ~~dishonors a remittance check or authorization to charge on itself or~~  
18 ~~presents or forwards for collection a remittance instrument of or on~~  
19 ~~another bank which is of a kind approved by subsection (1) or has not~~  
20 ~~been authorized by it, the collecting bank is not liable to prior~~  
21 ~~parties in the event of the dishonor of such check, instrument or~~  
22 ~~authorization.~~

23       (3) ~~A settlement for an item by means of a remittance instrument or~~  
24 ~~authorization to charge is or becomes a final settlement as to both the~~  
25 ~~person making and the person receiving the settlement~~

26       (a) ~~if the remittance instrument or authorization to charge is of~~  
27 ~~a kind approved by subsection (1) or has not been authorized by the~~  
28 ~~person receiving the settlement and in either case the person receiving~~  
29 ~~the settlement acts seasonably before its midnight deadline in~~  
30 ~~presenting, forwarding for collection or paying the instrument or~~

1 authorization, ~~at the time the remittance instrument or authorization~~  
2 ~~is finally paid by the payor by which it is payable;~~

3 ~~(b) if the person receiving the settlement has authorized~~  
4 ~~remittance by a non bank check or obligation or by a cashier's check or~~  
5 ~~similar primary obligation of or a check upon the payor or other~~  
6 ~~remitting bank which is not of a kind approved by subsection (1)(b),~~  
7 ~~at the time of the receipt of such remittance check or obligation; or~~

8 ~~(c) if in a case not covered by sub paragraphs (a) or (b) the~~  
9 ~~person receiving the settlement fails to seasonably present, forward~~  
10 ~~for collection, pay or return a remittance instrument or authorization~~  
11 ~~to it to charge before its midnight deadline, at such midnight~~  
12 ~~deadline.)) With respect to settlement by a bank, the medium and time~~  
13 ~~of settlement may be prescribed by Federal Reserve regulations or~~  
14 ~~circulares, clearing-house rules, and the like, or agreement. In the~~  
15 ~~absence of such prescription:~~

16 ~~(a) The medium of settlement is cash or credit to an account in a~~  
17 ~~Federal Reserve bank of or specified by the person to receive~~  
18 ~~settlement; and~~

19 ~~(b) The time of settlement, is:~~

20 ~~(i) With respect to tender of settlement by cash, a cashier's~~  
21 ~~check, or teller's check, when the cash or check is sent or delivered;~~

22 ~~(ii) With respect to tender of settlement by credit in an account~~  
23 ~~in a Federal Reserve bank, when the credit is made;~~

24 ~~(iii) With respect to tender of settlement by a credit or debit to~~  
25 ~~an account in a bank, when the credit or debit is made or, in the case~~  
26 ~~of tender of settlement by authority to charge an account, when the~~  
27 ~~authority is sent or delivered; or~~

28 ~~(iv) With respect to tender of settlement by a funds transfer, when~~  
29 ~~payment is made pursuant to RCW 62A.4A.406(1) (section 4A-406(1) of H-~~  
30 ~~0690/91) to the person receiving settlement.~~

1       (2) If the tender of settlement is not by a medium authorized by  
2 subsection (1) or the time of settlement is not fixed by subsection  
3 (1), no settlement occurs until the tender of settlement is accepted by  
4 the person receiving settlement.

5       (3) If settlement for an item is made by cashier's check or  
6 teller's check and the person receiving settlement, before its midnight  
7 deadline:

8       (a) Presents or forwards the check for collection, settlement is  
9 final when the check is finally paid; or

10       (b) Fails to present or forward the check for collection,  
11 settlement is final at the midnight deadline of the person receiving  
12 settlement.

13       (4) If settlement for an item is made by giving authority to charge  
14 the account of the bank giving settlement in the bank receiving  
15 settlement, settlement is final when the charge is made by the bank  
16 receiving settlement if there are funds available in the account for  
17 the amount of the item.

18       **Sec. 95.** RCW 62A.4-212 and 1965 ex.s. c 157 s 4-212 are each  
19 amended to read as follows:

20       RIGHT OF CHARGE-BACK OR REFUND; LIABILITY OF COLLECTING BANK;  
21 RETURN OF ITEM.       (1) If a collecting bank has made provisional  
22 settlement with its customer for an item and ((itself)) fails by reason  
23 of dishonor, suspension of payments by a bank, or otherwise to receive  
24 a settlement for the item which is or becomes final, the bank may  
25 revoke the settlement given by it, charge back the amount of any credit  
26 given for the item to its customer's account, or obtain refund from its  
27 customer, whether or not it is able to return the items, if by its  
28 midnight deadline or within a longer reasonable time after it learns  
29 the facts it returns the item or sends notification of the facts. If

1 the return or notice is delayed beyond the bank's midnight deadline or  
2 a longer reasonable time after it learns the facts, the bank may revoke  
3 the settlement, charge back the credit, or obtain refund from its  
4 customer, but it is liable for any loss resulting from the delay.  
5 These rights to revoke, charge-back, and obtain refund terminate if and  
6 when a settlement for the item received by the bank is or becomes final  
7 (~~(subsection (3) of RCW 62A.4-211 and subsections (2) and (3) of RCW~~  
8 ~~62A.4-213))~~).

9 (2) (~~(Within the time and manner prescribed by this section and RCW~~  
10 ~~62A.4-301, an intermediary or payor bank, as the case may be, may~~  
11 ~~return an unpaid item directly to the depositary bank and may send for~~  
12 ~~collection a draft on the depositary bank and obtain reimbursement. In~~  
13 ~~such case, if the depositary bank has received provisional settlement~~  
14 ~~for the item, it must reimburse the bank drawing the draft and any~~  
15 ~~provisional credits for the item between banks shall become and remain~~  
16 ~~final.)) A collecting bank returns an item when it is sent or delivered  
17 to the bank's customer or transferor or pursuant to its instructions.~~

18 (3) A depositary bank (~~(which))~~ that is also the payor may charge-  
19 back the amount of an item to its customer's account or obtain refund  
20 in accordance with the section governing return of an item received by  
21 a payor bank for credit on its books (RCW 62A.4-301).

22 (4) The right to charge-back is not affected by:

23 (a) (~~(prior))~~ Previous use of (~~(the))~~ a credit given for the item;  
24 or

25 (b) Failure by any bank to exercise ordinary care with respect to  
26 the item, but (~~(any))~~ a bank so failing remains liable.

27 (5) A failure to charge-back or claim refund does not affect other  
28 rights of the bank against the customer or any other party.

29 (6) If credit is given in dollars as the equivalent of the value of  
30 an item payable in a foreign (~~(currency))~~ money, the dollar amount of

1 any charge-back or refund (~~((shall))~~) must be calculated on the basis of  
2 the (~~((buying—sight))~~) bank-offered spot rate for the foreign  
3 (~~((currency))~~) money prevailing on the day when the person entitled to  
4 the charge-back or refund learns that it will not receive payment in  
5 ordinary course.

6 **Sec. 96.** RCW 62A.4-213 and 1965 ex.s. c 157 s 4-213 are each  
7 amended to read as follows:

8 FINAL PAYMENT OF ITEM BY PAYOR BANK; WHEN PROVISIONAL DEBITS AND  
9 CREDITS BECOME FINAL; WHEN CERTAIN CREDITS BECOME AVAILABLE FOR  
10 WITHDRAWAL. (1) An item is finally paid by a payor bank when the

11 bank has first done any of the following(~~((, whichever happens first))~~):

12 (a) Paid the item in cash; (~~((or))~~)

13 (b) Settled for the item without (~~((reserving))~~) having a right to  
14 revoke the settlement (~~((and without having such right))~~) under statute,  
15 clearing-house rule, or agreement; or

16 (c) (~~((completed the process of posting the item to the indicated  
17 account of the drawer, maker or other person to be charged therewith;  
18 or~~

19 ~~((d)))~~ Made a provisional settlement for the item and failed to  
20 revoke the settlement in the time and manner permitted by statute,  
21 clearing-house rule, or agreement.

22 (~~((Upon a final payment under subparagraphs (b), (c) or (d) the payor  
23 bank shall be accountable for the amount of the item.))~~)

24 (2) If provisional settlement for an item does not become final,  
25 the item is not finally paid.

26 (3) If provisional settlement for an item between the presenting  
27 and payor banks is made through a clearing house or by debits or  
28 credits in an account between them, then to the extent that provisional  
29 debits or credits for the item are entered in accounts between the

1 presenting and payor banks or between the presenting and successive  
2 prior collecting banks seriatim, they become final upon final payment  
3 of the item by the payor bank.

4 ~~((3))~~ (4) If a collecting bank receives a settlement for an item  
5 which is or becomes final ~~((subsection (3) of RCW 62A.4-211,~~  
6 ~~subsection (2) of RCW 62A.4-213))~~, the bank is accountable to its  
7 customer for the amount of the item and any provisional credit given  
8 for the item in an account with its customer becomes final.

9 ~~((4))~~ (5) Subject to (a) applicable law stating a time for  
10 availability of funds and (b) any right of the bank to apply the credit  
11 to an obligation of the customer, credit given by a bank for an item in  
12 ~~((an account with its customer))~~ a customer's account becomes available  
13 for withdrawal as of right:

14 ~~((a) in any case where)~~ (i) If the bank has received a  
15 provisional settlement for the item, ~~((--))~~ when ~~((such))~~ the settlement  
16 becomes final and the bank has had a reasonable time to ~~((learn that~~  
17 ~~the settlement is final))~~ receive return of the item and the item has  
18 not been received within that time;

19 ~~((b) in any case where)~~ (ii) If the bank is both ~~((a))~~ the  
20 depository bank and ((a)) the payor bank, and the item is finally  
21 paid,--at the opening of the bank's second banking day following  
22 receipt of the item.

23 ~~((5) A deposit of money in a bank is final when made but,)~~ (6)  
24 Subject to applicable law stating a time for availability of funds and  
25 any right of ((the)) a bank to apply ((the)) a deposit to an obligation  
26 of the ((customer)) depositor, ((the)) a deposit of money becomes  
27 available for withdrawal as of right at the opening of the bank's next  
28 banking day ((following)) after receipt of the deposit.





1 DEFERRED POSTING; RECOVERY OF PAYMENT BY RETURN OF ITEMS; TIME OF  
2 DISHONOR; RETURN OF ITEMS BY PAYOR BANK. (1) (~~Where an authorized~~  
3 ~~settlement~~) If a payor bank settles for a demand item (other than a  
4 documentary draft) (~~received by a payor bank~~) presented otherwise  
5 than for immediate payment over the counter (~~has been made~~) before  
6 midnight of the banking day of receipt, the payor bank may revoke the  
7 settlement and recover (~~any payment~~) the settlement if, before it has  
8 made final payment (~~subsection (1) of RCW 62A.4-213~~) and before its  
9 midnight deadline, it:

10 (a) Returns the item; or

11 (b) Sends written notice of dishonor or nonpayment if the item is  
12 (~~held for protest or is otherwise~~) unavailable for return.

13 (2) If a demand item is received by a payor bank for credit on its  
14 books, it may return (~~such~~) the item or send notice of dishonor and  
15 may revoke any credit given or recover the amount thereof withdrawn by  
16 its customer, if it acts within the time limit and in the manner  
17 specified in (~~the preceding~~) subsection (1).

18 (3) Unless previous notice of dishonor has been sent, an item is  
19 dishonored at the time when for purposes of dishonor it is returned or  
20 notice sent in accordance with this section.

21 (4) An item is returned:

22 (a) As to an item (~~received~~) presented through a clearing house,  
23 when it is delivered to the presenting or last collecting bank or to  
24 the clearing house or is sent or delivered in accordance with (~~its~~)  
25 clearing-house rules; or

26 (b) In all other cases, when it is sent or delivered to the bank's  
27 customer or transferor or pursuant to (~~his~~) instructions.

28 **Sec. 99.** RCW 62A.4-302 and 1965 ex.s. c 157 s 4-302 are each  
29 amended to read as follows:

1 PAYOR BANK'S RESPONSIBILITY FOR LATE RETURN OF ITEM. ((In the  
2 absence of a valid defense such as breach of a presentment warranty  
3 (subsection (1) of RCW 62A.4-207), settlement effected or the like,))  
4 (1) If an item is presented ((on)) to and received by a payor bank, the  
5 bank is accountable for the amount of:

6 (a) A demand item, other than a documentary draft, whether properly  
7 payable or not, if the bank, in any case ((where)) in which it is not  
8 also the depository bank, retains the item beyond midnight of the  
9 banking day of receipt without settling for it or, ((regardless of))  
10 whether or not it is also the depository bank, does not pay or return  
11 the item or send notice of dishonor until after its midnight deadline;  
12 or

13 (b) any other properly payable item unless, within the time allowed  
14 for acceptance or payment of that item, the bank either accepts or pays  
15 the item or returns it and accompanying documents.

16 (2) The liability of a payor bank to pay an item pursuant to  
17 subsection (1) is subject to defenses based on breach of a presentment  
18 warranty (RCW 62A.4-208) or proof that the person seeking enforcement  
19 of the liability presented or transferred the item for the purpose of  
20 defrauding the payor bank.

21 **Sec. 100.** RCW 62A.4-303 and 1965 ex.s. c 157 s 4-303 are each  
22 amended to read as follows:

23 WHEN ITEMS SUBJECT TO NOTICE, ((STOP-ORDER)) STOP-PAYMENT ORDER,  
24 LEGAL PROCESS, OR SETOFF; ORDER IN WHICH ITEMS MAY BE CHARGED OR  
25 CERTIFIED. (1) Any knowledge, notice, or ((stop-order)) stop-  
26 payment order received by, legal process served upon, or setoff  
27 exercised by a payor bank((, whether or not effective under other rules  
28 of law)) comes too late to terminate, suspend, or modify the bank's  
29 right or duty to pay an item or to charge its customer's account for

1 the item(~~(, comes too late to so terminate, suspend or modify such~~  
2 ~~right or duty)~~) if the knowledge, notice, stop-payment order, or legal  
3 process is received or served and a reasonable time for the bank to act  
4 thereon expires or the setoff is exercised after the (~~(bank has done~~  
5 ~~any)~~) earliest of the following:

6 (a) (~~(accepted or certified)~~) The bank accepts or certifies the  
7 item;

8 (b) (~~(paid)~~) The bank pays the item in cash;

9 (c) (~~(settled)~~) The bank settles for the item without (~~(reserving)~~)  
10 having a right to revoke the settlement (~~(and without having such~~  
11 ~~right)~~) under statute, clearing-house rule, or agreement;

12 (d) (~~(completed the process of posting the item to the indicated~~  
13 ~~account of the drawer, maker or other person to be charged therewith or~~  
14 ~~otherwise has evidenced by examination of such indicated account and by~~  
15 ~~action its decision to pay the item; or~~

16 ~~(e))~~) The bank becomes accountable for the amount of the item under  
17 (~~(subsection (1)(d) of RCW 62A.4-213 and)~~) RCW 62A.4-302 dealing with  
18 the payor bank's responsibility for late return of items(~~(-)~~); or

19 (e) With respect to checks, a cutoff hour no earlier than one hour  
20 after the opening of the next banking day after the banking day on  
21 which the bank received the check and no later than the close of that  
22 next banking day or, if no cutoff hour is fixed, the close of the next  
23 banking day after the banking day on which the bank received the check.

24 (2) Subject to (~~(the provisions of)~~) subsection (1) items may be  
25 accepted, paid, certified, or charged to the indicated account of its  
26 customer in any order (~~(convenient to the bank)~~).

27 PART 4

28 RELATIONSHIP BETWEEN PAYOR BANK AND ITS CUSTOMER

1       **Sec. 101.** RCW 62A.4-401 and 1965 ex.s. c 157 s 4-401 are each  
2 amended to read as follows:

3       WHEN BANK MAY CHARGE CUSTOMER'S ACCOUNT.       (1) (~~As against its~~  
4 ~~customer,~~) A bank may charge against ((his)) the account ((any)) of a  
5 customer an item ((which)) that is ((otherwise)) properly payable from  
6 that account even though the charge creates an overdraft. An item is  
7 properly payable if it is authorized by the customer and is in  
8 accordance with any agreement between the customer and bank.

9       (2) A customer is not liable for the amount of an overdraft if the  
10 customer neither signed the item nor benefited from the proceeds of the  
11 item.

12       (3) A bank may charge against the account of a customer a check  
13 that is otherwise properly payable from the account, even though  
14 payment was made before the date of the check, unless the customer has  
15 given notice to the bank of the postdating describing the check with  
16 reasonable certainty. The notice is effective for the period stated in  
17 RCW 62A.4-403(2) for stop-payment orders, and must be received at such  
18 time and in such manner as to afford the bank a reasonable opportunity  
19 to act on it before the bank takes any action with respect to the check  
20 described in RCW 62A.4-303. If a bank charges against the account of  
21 a customer a check before the date stated in the notice of postdating,  
22 the bank is liable for damages for the loss resulting from its act.  
23 The loss may include damages for dishonor of subsequent items under RCW  
24 62A.4-402.

25       (4) A bank (~~which~~) that in good faith makes payment to a holder  
26 may charge the indicated account of its customer according to:

27       (a) The original ((tenor)) terms of ((his)) the altered item; or

28       (b) The ((tenor)) terms of ((his)) the completed item, even though  
29 the bank knows the item has been completed unless the bank has notice  
30 that the completion was improper.

1       **Sec. 102.** RCW 62A.4-402 and 1965 ex.s. c 157 s 4-402 are each  
2 amended to read as follows:

3       BANK'S LIABILITY TO CUSTOMER FOR WRONGFUL DISHONOR; TIME OF  
4 DETERMINING INSUFFICIENCY OF ACCOUNT.     (1) Except as otherwise  
5 provided in this Article, a payor bank wrongfully dishonors an item if  
6 it dishonors an item that is properly payable, but a bank may dishonor  
7 an item that would create an overdraft unless it has agreed to pay the  
8 overdraft.

9       (2) A payor bank is liable to its customer for damages proximately  
10 caused by the wrongful dishonor of an item. (~~When the dishonor occurs~~  
11 ~~through mistake~~) Liability is limited to actual damages proved(~~(. If~~  
12 ~~so proximately caused)~~) and (~~proved damages~~) may include damages for  
13 an arrest or prosecution of the customer or other consequential  
14 damages. Whether any consequential damages are proximately caused by  
15 the wrongful dishonor is a question of fact to be determined in each  
16 case.

17       (3) A payor bank's determination of the customer's account balance  
18 on which a decision to dishonor for insufficiency of available funds is  
19 based may be made at any time between the time the item is received by  
20 the payor bank and the time that the payor bank returns the item or  
21 gives notice in lieu of return, and no more than one determination need  
22 be made. If, at the election of the payor bank, a subsequent balance  
23 determination is made for the purpose of reevaluating the bank's  
24 decision to dishonor the item, the account balance at that time is  
25 determinative of whether a dishonor for insufficiency of available  
26 funds is wrongful.

27       **Sec. 103.** RCW 62A.4-403 and 1965 ex.s. c 157 s 4-403 are each  
28 amended to read as follows:

CUSTOMER'S RIGHT TO STOP PAYMENT; BURDEN OF PROOF OF LOSS. (1)

A customer or any other person authorized to draw on the account if there is more than one person may ~~((by order to his bank))~~ stop payment of any item ~~((payable for his))~~ drawn on the customer's account ((but)) or close the account by an order ((must be)) to the bank describing the item or account with reasonable certainty received at ((such)) a time and in ((such)) a manner ((as to)) that affords the bank a reasonable opportunity to act on it ((prior to)) before any action by the bank with respect to the item described in RCW 62A.4-303. If the signature of more than one person is required to draw on an account, any of these persons may stop payment or close the account.

~~((An oral order is binding upon the bank only for fourteen calendar days unless confirmed in writing within that period. A written order is effective for only six months unless renewed in writing))~~ A stop-payment order is effective for six months, but it lapses after fourteen calendar days if the original order was oral and was not confirmed in writing within that period. A stop-payment order may be renewed for additional six-month periods by a writing given to the bank within a period during which the stop-payment order is effective.

(3) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a binding stop-payment order or order to close the account is on the customer. The loss from payment of an item contrary to a stop-payment order may include damages for dishonor of subsequent items under RCW 62A.4-402.

**Sec. 104.** RCW 62A.4-405 and 1965 ex.s. c 157 s 4-405 are each amended to read as follows:

DEATH OR INCOMPETENCE OF CUSTOMER. (1) A payor or collecting bank's authority to accept, pay, or collect an item or to account for

1 proceeds of its collection, if otherwise effective, is not rendered  
2 ineffective by incompetence of a customer of either bank existing at  
3 the time the item is issued or its collection is undertaken if the bank  
4 does not know of an adjudication of incompetence. Neither death nor  
5 incompetence of a customer revokes (~~such~~) the authority to accept,  
6 pay, collect, or account until the bank knows of the fact of death or  
7 of an adjudication of incompetence and has reasonable opportunity to  
8 act on it.

9 (2) Even with knowledge, a bank may for ten days after the date of  
10 death pay or certify checks drawn on or (~~prior to~~) before that date  
11 unless ordered to stop payment by a person claiming an interest in the  
12 account.

13 **Sec. 105.** RCW 62A.4-406 and 1967 c 114 s 1 are each amended to  
14 read as follows:

15 CUSTOMER'S DUTY TO DISCOVER AND REPORT UNAUTHORIZED SIGNATURE OR  
16 ALTERATION. (1) (~~When a bank sends to its customer a statement of~~  
17 ~~account accompanied by items paid in good faith in support of the debit~~  
18 ~~entries or holds the statement and items pursuant to a request or~~  
19 ~~instructions of its customer or otherwise in a reasonable manner makes~~  
20 ~~the statement and items available to the customer, the customer must~~  
21 ~~exercise reasonable care and promptness to examine the statement and~~  
22 ~~items to discover his unauthorized signature or any alteration on an~~  
23 ~~item and must notify the bank promptly after discovery thereof.)) A  
24 bank that sends or makes available to a customer a statement of account  
25 showing payment of items for the account shall either return or make  
26 available to the customer the items paid or provide information in the  
27 statement of account sufficient to allow the customer reasonably to  
28 identify the items paid. The statement of account provides sufficient~~

1 information if the item is described by item number, amount, and date  
2 of payment.

3 (2) If the items are not returned to the customer, the person  
4 retaining the items shall either retain the items or, if the items are  
5 destroyed, maintain the capacity to furnish legible copies of the items  
6 until the expiration of seven years after receipt of the items. A  
7 customer may request an item from the bank that paid the item, and that  
8 bank must provide in a reasonable time either the item or, if the item  
9 has been destroyed or is not otherwise obtainable, a legible copy of  
10 the item.

11 (3) If a bank sends or makes available a statement of account or  
12 items pursuant to subsection (1), the customer must exercise reasonable  
13 promptness in examining the statement or the items to determine whether  
14 any payment was not authorized because of an alteration of an item or  
15 because a purported signature by or on behalf of the customer was not  
16 authorized. If, based on the statement or items provided, the customer  
17 should reasonably have discovered the unauthorized payment, the  
18 customer must promptly notify the bank of the relevant facts.

19 ~~((+2))~~ (4) If the bank ~~((establishes))~~ proves that the customer  
20 failed, with respect to an item, to comply with the duties imposed on  
21 the customer by subsection ~~((+1))~~ (3), the customer is precluded from  
22 asserting against the bank:

23 ~~((his))~~ The customer's unauthorized signature or any alteration  
24 on the item, if the bank also ~~((establishes))~~ proves that it suffered  
25 a loss by reason of ~~((such))~~ the failure; and

26 ~~((an))~~ The customer's unauthorized signature or alteration by  
27 the same wrong-doer on any other item paid in good faith by the bank  
28 ~~((after the first item and statement was available to the customer for~~  
29 ~~a reasonable period and before the bank receives notification from the~~  
30 ~~customer of any such unauthorized signature or alteration))~~ if the



1 payment was made before the bank received notice from the customer of  
2 the unauthorized signature or alteration and after the customer had  
3 been afforded a reasonable period of time, not exceeding thirty days,  
4 in which to examine the item or statement of account and notify the  
5 bank.

6 ~~((3) The preclusion under subsection (2) does not apply if the~~  
7 ~~customer establishes lack of ordinary care on the part of the bank in~~  
8 ~~paying the item(s).~~

9 ~~(4))~~ (5) If subsection (4) applies and the customer proves that  
10 the bank failed to exercise ordinary care in paying the item and that  
11 the failure substantially contributed to loss, the loss is allocated  
12 between the customer precluded and the bank asserting the preclusion  
13 according to the extent to which the failure of the customer to comply  
14 with subsection (3) and the failure of the bank to exercise ordinary  
15 care contributed to the loss. If the customer proves that the bank did  
16 not pay the item in good faith, the preclusion under subsection (4)  
17 does not apply.

18 (6) Without regard to care or lack of care of either the customer  
19 or the bank, a customer who does not within sixty days ((from the  
20 time)) after the statement ((and)) or items are made available to the  
21 customer (subsection (1)) discover and report ((his)) the customer's  
22 unauthorized signature on or any alteration ((on the face or back of  
23 the item or does not within three years from that time discover and  
24 report any unauthorized indorsement)) on the item is precluded from  
25 asserting against the bank ((such)) the unauthorized signature or  
26 ((indorsement or such)) alteration.

27 ~~((5) If under this section a payor bank has a valid defense~~  
28 ~~against a claim of a customer upon or resulting from payment of an item~~  
29 ~~and waives or fails upon request to assert the defense the bank may not~~  
30 ~~assert against any collecting bank or other prior party presenting or~~

1 ~~transferring the item a claim based upon the unauthorized signature or~~  
2 ~~alteration giving rise to the customer's claim.))~~ If there is a  
3 preclusion under this subsection, the payor bank may not recover for  
4 breach of warranty under RCW 62A.4-208 with respect to the unauthorized  
5 signature or alteration to which the preclusion applies.

6 **Sec. 106.** RCW 62A.4-407 and 1965 ex.s. c 157 s 4-407 are each  
7 amended to read as follows:

8 PAYOR BANK'S RIGHT TO SUBROGATION ON IMPROPER PAYMENT. If a payor  
9 bank has paid an item over the ~~((stop payment))~~ order of the drawer or  
10 maker to stop payment, or after an account has been closed, or  
11 otherwise under circumstances giving a basis for objection by the  
12 drawer or maker, to prevent unjust enrichment and only to the extent  
13 necessary to prevent loss to the bank by reason of its payment of the  
14 item, the payor bank ~~((shall be))~~ is subrogated to the rights:

15 (a) Of any holder in due course on the item against the drawer or  
16 maker; ~~((and))~~

17 (b) Of the payee or any other holder of the item against the drawer  
18 or maker either on the item or under the transaction out of which the  
19 item arose; and

20 (c) Of the drawer or maker against the payee or any other holder of  
21 the item with respect to the transaction out of which the item arose.

22 PART 5

23 COLLECTION OF DOCUMENTARY DRAFTS

24 **Sec. 107.** RCW 62A.4-501 and 1965 ex.s. c 157 s 4-501 are each  
25 amended to read as follows:

26 HANDLING OF DOCUMENTARY DRAFTS; DUTY TO SEND FOR PRESENTMENT AND TO  
27 NOTIFY CUSTOMER OF DISHONOR. A bank ~~((which))~~ that takes a

1 documentary draft for collection (~~must~~) shall present or send the  
2 draft and accompanying documents for presentment and, upon learning  
3 that the draft has not been paid or accepted in due course (~~must~~),  
4 shall seasonably notify its customer of (~~such~~) the fact even though  
5 it may have discounted or bought the draft or extended credit available  
6 for withdrawal as of right.

7 **Sec. 108.** RCW 62A.4-502 and 1965 ex.s. c 157 s 4-502 are each  
8 amended to read as follows:

9 PRESENTMENT OF "ON ARRIVAL" DRAFTS. (~~When~~) If a draft or the  
10 relevant instructions require presentment "on arrival", "when goods  
11 arrive" or the like, the collecting bank need not present until in its  
12 judgment a reasonable time for arrival of the goods has expired.  
13 Refusal to pay or accept because the goods have not arrived is not  
14 dishonor; the bank must notify its transferor of (~~such~~) the refusal  
15 but need not present the draft again until it is instructed to do so or  
16 learns of the arrival of the goods.

17 **Sec. 109.** RCW 62A.4-503 and 1965 ex.s. c 157 s 4-503 are each  
18 amended to read as follows:

19 RESPONSIBILITY OF PRESENTING BANK FOR DOCUMENTS AND GOODS; REPORT  
20 OF REASONS FOR DISHONOR; REFEREE IN CASE OF NEED. U n l e s s  
21 otherwise instructed and except as provided in Article 5, a bank  
22 presenting a documentary draft:

23 (a) Must deliver the documents to the drawee on acceptance of the  
24 draft if it is payable more than three days after presentment;  
25 otherwise, only on payment; and

26 (b) Upon dishonor, either in the case of presentment for acceptance  
27 or presentment for payment, may seek and follow instructions from any  
28 referee in case of need designated in the draft or, if the presenting

1 bank does not choose to utilize (~~his~~) the referee's services, it must  
2 use diligence and good faith to ascertain the reason for dishonor, must  
3 notify its transferor of the dishonor and of the results of its effort  
4 to ascertain the reasons therefor, and must request instructions.  
5 (~~But~~) However, the presenting bank is under no obligation with  
6 respect to goods represented by the documents except to follow any  
7 reasonable instructions seasonably received; it has a right to  
8 reimbursement for any expense incurred in following instructions and to  
9 prepayment of or indemnity for (~~such~~) those expenses.

10 **Sec. 110.** RCW 62A.4-504 and 1965 ex.s. c 157 s 4-504 are each  
11 amended to read as follows:

12 PRIVILEGE OF PRESENTING BANK TO DEAL WITH GOODS; SECURITY INTEREST  
13 FOR EXPENSES. (1) A presenting bank (~~which~~) that, following the  
14 dishonor of a documentary draft, has seasonably requested instructions  
15 but does not receive them within a reasonable time may store, sell, or  
16 otherwise deal with the goods in any reasonable manner.

17 (2) For its reasonable expenses incurred by action under subsection  
18 (1) the presenting bank has a lien upon the goods or their proceeds,  
19 which may be foreclosed in the same manner as an unpaid seller's lien.

20 NEW SECTION. **Sec. 111.** (1) RCW 62A.4-106, 62A.4-107, 62A.4-108,  
21 62A.4-208, 62A.4-209, 62A.4-210, 62A.4-211, 62A.4-212, 62A.4-213, and  
22 62A.4-214, as amended by this act, may be recodified as necessary by  
23 the code reviser to preserve the arrangement of the uniform commercial  
24 code of the national conference of commissioners on uniform state laws.

25 (2) The code reviser shall correct all references in the Revised  
26 Code of Washington to the sections of the code that may be recodified  
27 by this section.

1        NEW SECTION.    **Sec. 112.**        RCW 62A.4-109 and 1965 ex.s. c 157 s  
2 4-109 are each repealed.