
HOUSE BILL 1014

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Appelwick and Riley

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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,
18 62A.4-503, and 62A.4-504; adding new sections to Title 62A RCW;
19 creating a new section; and repealing RCW 62A.3-120, 62A.3-121, 62A.3-
20 122, 62A.3-208, 62A.3-506, 62A.3-507, 62A.3-508, 62A.3-509, 62A.3-510,
21 62A.3-511, 62A.3-512, 62A.3-515, 62A.3-520, 62A.3-522, 62A.3-525,

1 62A.3-606, 62A.3-701, 62A.3-801, 62A.3-802, 62A.3-803, 62A.3-804,
2 62A.3-805, and 62A.4-109.

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

4 ARTICLE 1

5 GENERAL PROVISIONS

6 PART 2

7 GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

8 **Sec. 1.** RCW 62A.1-201 and 1992 c 134 s 14 are each amended to read
9 as follows:

10 Subject to additional definitions contained in the subsequent
11 Articles of this Title which are applicable to specific Articles or
12 Parts thereof, and unless the context otherwise requires, in this
13 Title:

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

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

18 (3) "Agreement" means the bargain of the parties in fact as found
19 in their language or by implication from other circumstances including
20 course of dealing or usage of trade or course of performance as
21 provided in this Title (RCW 62A.1-205 and RCW 62A.2-208). Whether an
22 agreement has legal consequences is determined by the provisions of
23 this Title, if applicable; otherwise by the law of contracts (RCW
24 62A.1-103). (Compare "Contract".)

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

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

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

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

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

4 (9) "Buyer in ordinary course of business" means a person who in
5 good faith and without knowledge that the sale to him is in violation
6 of the ownership rights or security interest of a third party in the
7 goods buys in ordinary course from a person in the business of selling
8 goods of that kind but does not include a pawnbroker. All persons who
9 sell minerals or the like (including oil and gas) at wellhead or
10 minehead shall be deemed to be persons in the business of selling goods
11 of that kind. "Buying" may be for cash or by exchange of other
12 property or on secured or unsecured credit and includes receiving goods
13 or documents of title under a pre-existing contract for sale but does
14 not include a transfer in bulk or as security for or in total or
15 partial satisfaction of a money debt.

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

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

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

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

33 (14) "Delivery" with respect to instruments, documents of title,
34 chattel paper, or certificated securities means voluntary transfer of
35 possession.

36 (15) "Document of title" includes bill of lading, dock warrant,
37 dock receipt, warehouse receipt or order for the delivery of goods, and
38 also any other document which in the regular course of business or
39 financing is treated as adequately evidencing that the person in

1 possession of it is entitled to receive, hold and dispose of the
2 document and the goods it covers. To be a document of title a document
3 must purport to be issued by or addressed to a bailee and purport to
4 cover goods in the bailee's possession which are either identified or
5 are fungible portions of an identified mass.

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

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

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

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

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

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

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

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

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

6 (25) A person has "notice" of a fact when

7 (a) he has actual knowledge of it; or

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

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

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

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

20 (a) it comes to his attention; or

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

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

37 (28) "Organization" includes a corporation, government or
38 governmental subdivision or agency, business trust, estate, trust,

1 partnership or association, two or more persons having a joint or
2 common interest, or any other legal or commercial entity.

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

5 (30) "Person" includes an individual or an organization (See RCW
6 62A.1-102).

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

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

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

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

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

19 (36) "Rights" includes remedies.

20 (37) "Security interest" means an interest in personal property or
21 fixtures which secures payment or performance of an obligation, except
22 for lease-purchase agreements under chapter 63.19 RCW. The retention
23 or reservation of title by a seller of goods notwithstanding shipment
24 or delivery to the buyer (RCW 62A.2-401) is limited in effect to a
25 reservation of a "security interest". The term also includes any
26 interest of a buyer of accounts or chattel paper which is subject to
27 Article 9. The special property interest of a buyer of goods on
28 identification of such goods to a contract for sale under RCW 62A.2-401
29 is not a "security interest", but a buyer may also acquire a "security
30 interest" by complying with Article 9. Unless a lease or consignment
31 is intended as security, reservation of title thereunder is not a
32 "security interest" but a consignment is in any event subject to the
33 provisions on consignment sales (RCW 62A.2-326). Whether a lease is
34 intended as security is to be determined by the facts of each case;
35 however, (a) the inclusion of an option to purchase does not of itself
36 make the lease one intended for security, and (b) an agreement that
37 upon compliance with the terms of the lease the lessee shall become or
38 has the option to become the owner of the property for no additional

1 consideration or for a nominal consideration does make the lease one
2 intended for security.

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

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

13 (40) "Surety" includes guarantor.

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

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

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

20 (44) "Value". Except as otherwise provided with respect to
21 negotiable instruments and bank collections (RCW 62A.3-303, RCW 62A.4-
22 208 and RCW 62A.4-209) a person gives "value" for rights if he acquires
23 them

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

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

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

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

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

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

1 "Acceptance."—RCW 62A.3-410.
2 "Accommodation party."—RCW 62A.3-415.
3 "Alteration."—RCW 62A.3-407.
4 "Certificate of deposit."—RCW 62A.3-104.
5 "Certification."—RCW 62A.3-411.
6 "Check."—RCW 62A.3-104.
7 "Definite time."—RCW 62A.3-109.
8 "Dishonor."—RCW 62A.3-507.
9 "Draft."—RCW 62A.3-104.
10 "Holder in due course."—RCW 62A.3-302.
11 "Negotiation."—RCW 62A.3-202.
12 "Note."—RCW 62A.3-104.
13 "Notice of dishonor."—RCW 62A.3-508.
14 "On demand."—RCW 62A.3-108.
15 "Presentment."—RCW 62A.3-504.
16 "Protest."—RCW 62A.3-509.
17 "Restrictive indorsement."—RCW 62A.3-205.
18 "Signature."—RCW 62A.3-401.

19 (3) ~~The following definitions in other Articles apply to this~~
20 ~~Article:~~

21 "Account."—RCW 62A.4-104.
22 "Banking day."—RCW 62A.4-104.
23 "Clearing house."—RCW 62A.4-104.
24 "Collecting bank."—RCW 62A.4-105.
25 "Customer."—RCW 62A.4-104.
26 "Depository bank."—RCW 62A.4-105.
27 "Documentary draft."—RCW 62A.4-104.
28 "Intermediary bank."—RCW 62A.4-105.
29 "Item."—RCW 62A.4-104.
30 "Midnight deadline."—RCW 62A.4-104.
31 "Payor bank."—RCW 62A.4-105.

32 (4) ~~In addition Article 1 contains general definitions and~~
33 ~~principles of construction and interpretation applicable throughout~~
34 ~~this Article.))~~

35 SUBJECT MATTER. (1) This Article applies to negotiable
36 instruments. It does not apply to money, to payment orders governed by
37 Article 4A, or to securities governed by Article 8.

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

1 (3) Regulations of the Board of Governors of the Federal Reserve
2 System and operating circulars of the Federal Reserve Banks supersede
3 any inconsistent provision of this Article to the extent of the
4 inconsistency.

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

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

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

12 DEFINITIONS. (1) In this Article:

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

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

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

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

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

21 (f) "Order" means a written instruction to pay money signed by the
22 person giving the instruction. The instruction may be addressed to any
23 person, including the person giving the instruction, or to one or more
24 persons jointly or in the alternative but not in succession. An
25 authorization to pay is not an order unless the person authorized to
26 pay is also instructed to pay.

27 (g) "Ordinary care" in the case of a person engaged in business
28 means observance of reasonable commercial standards, prevailing in the
29 area in which the person is located, with respect to the business in
30 which the person is engaged. In the case of a bank that takes an
31 instrument for processing for collection or payment by automated means,
32 reasonable commercial standards do not require the bank to examine the
33 instrument if the failure to examine does not violate the bank's
34 prescribed procedures and the bank's procedures do not vary
35 unreasonably from general banking usage not disapproved by this Article
36 or Article 4.

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

1 (i) "Promise" means a written undertaking to pay money signed by
2 the person undertaking to pay. An acknowledgment of an obligation by
3 the obligor is not a promise unless the obligor also undertakes to pay
4 the obligation.

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

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

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

12	<u>"Acceptance"</u>	<u>RCW 62A.3-409</u>
13	<u>"Accommodated party"</u>	<u>RCW 62A.3-419</u>
14	<u>"Accommodation party"</u>	<u>RCW 62A.3-419</u>
15	<u>"Alteration"</u>	<u>RCW 62A.3-407</u>
16	<u>"Anomalous indorsement"</u>	<u>RCW 62A.3-205</u>
17	<u>"Blank indorsement"</u>	<u>RCW 62A.3-205</u>
18	<u>"Cashier's check"</u>	<u>RCW 62A.3-104</u>
19	<u>"Certificate of deposit"</u>	<u>RCW 62A.3-104</u>
20	<u>"Certified check"</u>	<u>RCW 62A.3-409</u>
21	<u>"Check"</u>	<u>RCW 62A.3-104</u>
22	<u>"Consideration"</u>	<u>RCW 62A.3-303</u>
23	<u>"Draft"</u>	<u>RCW 62A.3-104</u>
24	<u>"Holder in due course"</u>	<u>RCW 62A.3-302</u>
25	<u>"Incomplete instrument"</u>	<u>RCW 62A.3-115</u>
26	<u>"Indorsement"</u>	<u>RCW 62A.3-204</u>
27	<u>"Indorser"</u>	<u>RCW 62A.3-204</u>
28	<u>"Instrument"</u>	<u>RCW 62A.3-104</u>
29	<u>"Issue"</u>	<u>RCW 62A.3-105</u>
30	<u>"Issuer"</u>	<u>RCW 62A.3-105</u>
31	<u>"Negotiable instrument"</u>	<u>RCW 62A.3-104</u>
32	<u>"Negotiation"</u>	<u>RCW 62A.3-201</u>
33	<u>"Note"</u>	<u>RCW 62A.3-104</u>
34	<u>"Payable at a definite</u>	
35	<u>time"</u>	<u>RCW 62A.3-108</u>
36	<u>"Payable on demand"</u>	<u>RCW 62A.3-108</u>
37	<u>"Payable to bearer"</u>	<u>RCW 62A.3-109</u>
38	<u>"Payable to order"</u>	<u>RCW 62A.3-109</u>
39	<u>"Payment"</u>	<u>RCW 62A.3-602</u>

1	<u>"Person entitled to</u>	
2	<u>enforce"</u>	RCW 62A.3-301
3	<u>"Presentment"</u>	RCW 62A.3-501
4	<u>"Reacquisition"</u>	RCW 62A.3-207
5	<u>"Special indorsement"</u>	RCW 62A.3-205
6	<u>"Teller's check"</u>	RCW 62A.3-104
7	<u>"Transfer of instrument"</u>	RCW 62A.3-203
8	<u>"Traveler's check"</u>	RCW 62A.3-104
9	<u>"Value"</u>	RCW 62A.3-303

10 (3) The following definitions in other Articles apply to this
 11 Article:

12	<u>"Bank"</u>	RCW 62A.4-105
13	<u>"Banking day"</u>	RCW 62A.4-104
14	<u>"Clearing house"</u>	RCW 62A.4-104
15	<u>"Collecting bank"</u>	RCW 62A.4-105
16	<u>"Depository bank"</u>	RCW 62A.4-105
17	<u>"Documentary draft"</u>	RCW 62A.4-104
18	<u>"Intermediary bank"</u>	RCW 62A.4-105
19	<u>"Item"</u>	RCW 62A.4-104
20	<u>"Payor bank"</u>	RCW 62A.4-105
21	<u>"Suspends payments"</u>	RCW 62A.4-104

22 (4) In addition, Article 1 contains general definitions and
 23 principles of construction and interpretation applicable throughout
 24 this Article.

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

27 ~~((FORM OF NEGOTIABLE INSTRUMENTS; "DRAFT"; "CHECK"; "CERTIFICATE OF~~
 28 ~~DEPOSIT"; "NOTE". (1) Any writing to be a negotiable instrument within~~
 29 ~~this Article must~~

- 30 ~~(a) be signed by the maker or drawer; and~~
- 31 ~~(b) contain an unconditional promise or order to pay a sum certain~~
 32 ~~in money and no other promise, order, obligation or power given by the~~
 33 ~~maker or drawer except as authorized by this Article; and~~
- 34 ~~(c) be payable on demand or at a definite time; and~~
- 35 ~~(d) be payable to order or to bearer.~~

36 ~~(2) A writing which complies with the requirements of this section~~
 37 ~~is~~

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

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

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

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

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

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

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

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

18 (c) Does not state any other undertaking or instruction by the
19 person promising or ordering payment to do any act in addition to the
20 payment of money, but the promise or order may contain (i) an
21 undertaking or power to give, maintain, or protect collateral to secure
22 payment, (ii) an authorization or power to the holder to confess
23 judgment or realize on or dispose of collateral, or (iii) a waiver of
24 the benefit of any law intended for the advantage or protection of an
25 obligor.

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

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

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

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

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

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

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

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

14 (10) "Certificate of deposit" means an instrument containing an
15 acknowledgment by a bank that a sum of money has been received by the
16 bank and a promise by the bank to repay the sum of money. A
17 certificate of deposit is a note of the bank.

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

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

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

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

28 ~~(c) refers to or states that it arises out of a separate agreement~~
29 ~~or refers to a separate agreement for rights as to prepayment or~~
30 ~~acceleration; or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 ~~(2) A rate of interest that cannot be calculated by looking only to~~
33 ~~the instrument is a stated rate of interest in subsection (1) of this~~
34 ~~section if the rate during any period is readily ascertainable by a~~
35 ~~reference in the instrument to a published statute, regulation, rule of~~
36 ~~court, generally accepted commercial or financial index, compendium of~~
37 ~~interest rates, or announced or established rate of one or more named~~
38 ~~financial institutions.~~

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

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

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

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

17 (3) If a promise or order requires, as a condition to payment, a
18 countersignature by a person whose specimen signature appears on the
19 promise or order, the condition does not make the promise or order
20 conditional for the purposes of RCW 62A.3-104(1). If the person whose
21 specimen signature appears on an instrument fails to countersign the
22 instrument, the failure to countersign is a defense to the obligation
23 of the issuer, but the failure does not prevent a transferee of the
24 instrument from becoming a holder of the instrument.

25 (4) If a promise or order at the time it is issued or first comes
26 into possession of a holder contains a statement, required by
27 applicable statutory or administrative law, to the effect that the
28 rights of a holder or transferee are subject to claims or defenses that
29 the issuer could assert against the original payee, the promise or
30 order is not thereby made conditional for the purposes of RCW
31 62A.3-104(1); but if the promise or order is an instrument, there
32 cannot be a holder in due course of the instrument.

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

35 ~~((MONEY.—(1) An instrument is payable in money if the medium of~~
36 ~~exchange in which it is payable is money at the time the instrument is~~
37 ~~made.— An instrument payable in "currency" or "current funds" is~~
38 ~~payable in money.~~

1 ~~(2) A promise or order to pay a sum stated in a foreign currency is~~
2 ~~for a sum certain in money and, unless a different medium of payment is~~
3 ~~specified in the instrument, may be satisfied by payment of that number~~
4 ~~of dollars which the stated foreign currency will purchase at the~~
5 ~~buying sight rate for that currency on the day on which the instrument~~
6 ~~is payable or, if payable on demand, on the day of demand. If such an~~
7 ~~instrument specifies a foreign currency as the medium of payment the~~
8 ~~instrument is payable in that currency.))~~

9 INSTRUMENT PAYABLE IN FOREIGN MONEY. Unless the instrument
10 otherwise provides, an instrument that states the amount payable in
11 foreign money may be paid in the foreign money or in an equivalent
12 amount in dollars calculated by using the current bank-offered spot
13 rate at the place of payment for the purchase of dollars on the day on
14 which the instrument is paid.

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

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

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

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

32 (3) If an instrument, payable at a fixed date, is also payable upon
33 demand made before the fixed date, the instrument is payable on demand
34 until the fixed date and, if demand for payment is not made before that
35 date, becomes payable at a definite time on the fixed date.

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

1 ~~((DEFINITE TIME.—(1) An instrument is payable at a definite time~~
2 ~~if by its terms it is payable~~
3 ~~(a) on or before a stated date or at a fixed period after a stated~~
4 ~~date; or~~
5 ~~(b) at a fixed period after sight; or~~
6 ~~(c) at a definite time subject to any acceleration; or~~
7 ~~(d) at a definite time subject to extension at the option of the~~
8 ~~holder, or to extension to a further definite time at the option of the~~
9 ~~maker or acceptor or automatically upon or after a specified act or~~
10 ~~event; or~~
11 ~~(e) by variable, graduated, annuity or price level adjusted~~
12 ~~payments.~~

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

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

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

21 (b) Does not state a payee; or

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

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

28 (3) An instrument payable to bearer may become payable to an
29 identified person if it is specially indorsed pursuant to RCW
30 62A.3-205(1). An instrument payable to an identified person may become
31 payable to bearer if it is indorsed in blank pursuant to RCW
32 62A.3-205(2).

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

35 ~~((PAYABLE TO ORDER.—(1) An instrument is payable to order when by~~
36 ~~its terms it is payable to the order or assigns of any person therein~~
37 ~~specified with reasonable certainty, or to him or his order, or when it~~

1 is conspicuously designated on its face as "exchange" or the like and
2 names a payee. It may be payable to the order of

3 (a) the maker or drawer; or

4 (b) the drawee; or

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

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

7 (e) an estate, trust or fund, in which case it is payable to the
8 order of the representative of such estate, trust or fund or his
9 successors; or

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

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

16 (2) An instrument not payable to order is not made so payable by
17 such words as "payable upon return of this instrument properly
18 indorsed."

19 (3) An instrument made payable both to order and to bearer is
20 payable to order unless the bearer words are handwritten or
21 typewritten.)

22 IDENTIFICATION OF PERSON TO WHOM INSTRUMENT IS PAYABLE. (1) The
23 person to whom an instrument is initially payable is determined by the
24 intent of the person, whether or not authorized, signing as, or in the
25 name or behalf of, the issuer of the instrument. The instrument is
26 payable to the person intended by the signer even if that person is
27 identified in the instrument by a name or other identification that is
28 not that of the intended person. If more than one person signs in the
29 name or behalf of the issuer of an instrument and all the signers do
30 not intend the same person as payee, the instrument is payable to any
31 person intended by one or more of the signers.

32 (2) If the signature of the issuer of an instrument is made by
33 automated means, such as a check-writing machine, the payee of the
34 instrument is determined by the intent of the person who supplied the
35 name or identification of the payee, whether or not authorized to do
36 so.

37 (3) A person to whom an instrument is payable may be identified in
38 any way, including by name, identifying number, office, or account

1 number. For the purpose of determining the holder of an instrument,
2 the following rules apply:

3 (a) If an instrument is payable to an account and the account is
4 identified only by number, the instrument is payable to the person to
5 whom the account is payable. If an instrument is payable to an account
6 identified by number and by the name of a person, the instrument is
7 payable to the named person, whether or not that person is the owner of
8 the account identified by number.

9 (b) If an instrument is payable to:

10 (i) A trust, an estate, or a person described as trustee or
11 representative of a trust or estate, the instrument is payable to the
12 trustee, the representative, or a successor of either, whether or not
13 the beneficiary or estate is also named;

14 (ii) A person described as agent or similar representative of a
15 named or identified person, the instrument is payable to the
16 represented person, the representative, or a successor of the
17 representative;

18 (iii) A fund or organization that is not a legal entity, the
19 instrument is payable to a representative of the members of the fund or
20 organization; or

21 (iv) An office or to a person described as holding an office, the
22 instrument is payable to the named person, the incumbent of the office,
23 or a successor to the incumbent.

24 (4) If an instrument is payable to two or more persons
25 alternatively, it is payable to any of them and may be negotiated,
26 discharged, or enforced by any or all of them in possession of the
27 instrument. If an instrument is payable to two or more persons not
28 alternatively, it is payable to all of them and may be negotiated,
29 discharged, or enforced only by all of them. If an instrument payable
30 to two or more persons is ambiguous as to whether it is payable to the
31 persons alternatively, the instrument is payable to the persons
32 alternatively.

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

35 ~~((PAYABLE TO BEARER. An instrument is payable to bearer when by~~
36 ~~its terms it is payable to~~

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

38 ~~(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~~

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

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

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

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

4 (2) Interest may be stated in an instrument as a fixed or variable
5 amount of money or it may be expressed as a fixed or variable rate or
6 rates. The amount or rate of interest may be stated or described in
7 the instrument in any manner and may require reference to information
8 not contained in the instrument. If an instrument provides for
9 interest, but the amount of interest payable cannot be ascertained from
10 the description, interest is payable at the judgment rate in effect at
11 the place of payment of the instrument and at the time interest first
12 accrues.

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

15 ~~((SEAL. An instrument otherwise negotiable is within this Article~~
16 ~~even though it is under a seal.))~~

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

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

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

27 ~~((DATE, ANTEDATING, POSTDATING. (1) The negotiability of an~~
28 ~~instrument is not affected by the fact that it is undated, antedated or~~
29 ~~postdated.~~

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

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

35 CONTRADICTORY TERMS OF INSTRUMENT. If an instrument contains
36 contradictory terms, typewritten terms prevail over printed terms,
37 handwritten terms prevail over both, and words prevail over numbers.

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

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

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

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

16 (2) Subject to subsection (3), if an incomplete instrument is an
17 instrument under RCW 62A.3-104, it may be enforced according to its
18 terms if it is not completed, or according to its terms as augmented by
19 completion. If an incomplete instrument is not an instrument under RCW
20 62A.3-104, but, after completion, the requirements of RCW 62A.3-104 are
21 met, the instrument may be enforced according to its terms as augmented
22 by completion.

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

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

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

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

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

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

1 JOINT AND SEVERAL LIABILITY; CONTRIBUTION. (1) Except as otherwise
2 provided in the instrument, two or more persons who have the same
3 liability on an instrument as makers, drawers, acceptors, indorsers who
4 indorse as joint payees, or anomalous indorsers are jointly and
5 severally liable in the capacity in which they sign.

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

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

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

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

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

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

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

27 OTHER AGREEMENTS AFFECTING INSTRUMENT. Subject to applicable law
28 regarding exclusion of proof of contemporaneous or previous agreements,
29 the obligation of a party to an instrument to pay the instrument may be
30 modified, supplemented, or nullified by a separate agreement of the
31 obligor and a person entitled to enforce the instrument, if the
32 instrument is issued or the obligation is incurred in reliance on the
33 agreement or as part of the same transaction giving rise to the
34 agreement. To the extent an obligation is modified, supplemented, or
35 nullified by an agreement under this section, the agreement is a
36 defense to the obligation.

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

3 (~~AMBIGUOUS TERMS AND RULES OF CONSTRUCTION. The following rules~~
4 ~~apply to every instrument:~~

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

8 ~~(b) Handwritten terms control typewritten and printed terms, and~~
9 ~~typewritten control printed.~~

10 ~~(c) Words control figures except that if the words are ambiguous~~
11 ~~figures control.~~

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

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

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

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

31 (2) Except as provided in subsection (4) or (5), if demand for
32 payment is made to the maker of a note payable on demand, an action to
33 enforce the obligation of a party to pay the note must be commenced
34 within six years after the demand. If no demand for payment is made to
35 the maker, an action to enforce the note is barred if neither principal
36 nor interest on the note has been paid for a continuous period of ten
37 years.

38 (3) Except as provided in subsection (4), an action to enforce the
39 obligation of a party to an unaccepted draft to pay the draft must be

1 commenced within three years after dishonor of the draft or ten years
2 after the date of the draft, whichever period expires first.

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

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

13 (6) An action to enforce the obligation of a party to pay an
14 accepted draft, other than a certified check, must be commenced (a)
15 within six years after the due date or dates stated in the draft or
16 acceptance if the obligation of the acceptor is payable at a definite
17 time, or (b) within six years after the date of the acceptance if the
18 obligation of the acceptor is payable on demand.

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

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

27 ~~((OTHER WRITINGS AFFECTING INSTRUMENT.—(1) As between the obligor~~
28 ~~and his immediate obligee or any transferee the terms of an instrument~~
29 ~~may be modified or affected by any other written agreement executed as~~
30 ~~a part of the same transaction, except that a holder in due course is~~
31 ~~not affected by any limitation of his rights arising out of the~~
32 ~~separate written agreement if he had no notice of the limitation when~~
33 ~~he took the instrument.~~

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

36 NOTICE OF RIGHT TO DEFEND ACTION. In an action for breach of an
37 obligation for which a third person is answerable over pursuant to this
38 Article or Article 4, the defendant may give the third person written

1 notice of the litigation, and the person notified may then give similar
2 notice to any other person who is answerable over. If the notice
3 states (1) that the person notified may come in and defend and (2) that
4 failure to do so will bind the person notified in an action later
5 brought by the person giving the notice as to any determination of fact
6 common to the two litigations, the person notified is so bound unless
7 after reasonable receipt of the notice the person notified does come in
8 and defend.

9 PART 2

10 NEGOTIATION, TRANSFER, AND ((NEGOTIATION)) INDORSEMENT

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

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

19 ~~(2) A transfer of a security interest in an instrument vests the~~
20 ~~foregoing rights in the transferee to the extent of the interest~~
21 ~~transferred.~~

22 ~~(3) Unless otherwise agreed any transfer for value of an instrument~~
23 ~~not then payable to bearer gives the transferee the specifically~~
24 ~~enforceable right to have the unqualified indorsement of the~~
25 ~~transferor. Negotiation takes effect only when the indorsement is made~~
26 ~~and until that time there is no presumption that the transferee is the~~
27 ~~owner.))~~

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

31 (2) Except for negotiation by a remitter, if an instrument is
32 payable to an identified person, negotiation requires transfer of
33 possession of the instrument and its indorsement by the holder. If an
34 instrument is payable to bearer, it may be negotiated by transfer of
35 possession alone.

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

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

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

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

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

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

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

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

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

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

36 (2) Transfer of an instrument, whether or not the transfer is a
37 negotiation, vests in the transferee any right of the transferor to
38 enforce the instrument, including any right as a holder in due course,

1 but the transferee cannot acquire rights of a holder in due course by
2 a transfer, directly or indirectly, from a holder in due course if the
3 transferee engaged in fraud or illegality affecting the instrument.

4 (3) Unless otherwise agreed, if an instrument is transferred for
5 value and the transferee does not become a holder because of lack of
6 indorsement by the transferor, the transferee has a specifically
7 enforceable right to the unqualified indorsement of the transferor, but
8 negotiation of the instrument does not occur until the indorsement is
9 made.

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

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

16 ~~((SPECIAL INDORSEMENT; BLANK INDORSEMENT. (1) A special~~
17 ~~indorsement specifies the person to whom or to whose order it makes the~~
18 ~~instrument payable. Any instrument specially indorsed becomes payable~~
19 ~~to the order of the special indorsee and may be further negotiated only~~
20 ~~by his indorsement.~~

21 ~~(2) An indorsement in blank specifies no particular indorsee and~~
22 ~~may consist of a mere signature. An instrument payable to order and~~
23 ~~indorsed in blank becomes payable to bearer and may be negotiated by~~
24 ~~delivery alone until specially indorsed.~~

25 ~~(3) The holder may convert a blank indorsement into a special~~
26 ~~indorsement by writing over the signature of the indorser in blank any~~
27 ~~contract consistent with the character of the indorsement.))~~

28 INDORSEMENT. (1) "Indorsement" means a signature, other than that
29 of a signer as maker, drawer, or acceptor, that alone or accompanied by
30 other words is made on an instrument for the purpose of (a) negotiating
31 the instrument, (b) restricting payment of the instrument, or (c)
32 incurring indorser's liability on the instrument, but regardless of the
33 intent of the signer, a signature and its accompanying words is an
34 indorsement unless the accompanying words, terms of the instrument,
35 place of the signature, or other circumstances unambiguously indicate
36 that the signature was made for a purpose other than indorsement. For
37 the purpose of determining whether a signature is made on an

1 instrument, a paper affixed to the instrument is a part of the
2 instrument.

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

4 (3) For the purpose of determining whether the transferee of an
5 instrument is a holder, an indorsement that transfers a security
6 interest in the instrument is effective as an unqualified indorsement
7 of the instrument.

8 (4) If an instrument is payable to a holder under a name that is
9 not the name of the holder, indorsement may be made by the holder in
10 the name stated in the instrument or in the holder's name or both, but
11 signature in both names may be required by a person paying or taking
12 the instrument for value or collection.

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

15 ~~((RESTRICTIVE INDORSEMENTS.—An indorsement is restrictive which~~
16 ~~either~~

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

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

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

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

23 SPECIAL INDORSEMENT; BLANK INDORSEMENT; ANOMALOUS INDORSEMENT. (1)
24 If an indorsement is made by the holder of an instrument, whether
25 payable to an identified person or payable to bearer, and the
26 indorsement identifies a person to whom it makes the instrument
27 payable, it is a "special indorsement." When specially indorsed, an
28 instrument becomes payable to the identified person and may be
29 negotiated only by the indorsement of that person. The principles
30 stated in RCW 62A.3-110 apply to special indorsements.

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

35 (3) The holder may convert a blank indorsement that consists only
36 of a signature into a special indorsement by writing, above the
37 signature of the indorser, words identifying the person to whom the
38 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~~
30 ~~other person has negotiated the instrument in any transaction for his~~
31 ~~own benefit or otherwise in breach of duty (subsection (2) of RCW~~
32 ~~62A.3-304).))~~

33 RESTRICTIVE INDORSEMENT. (1) An indorsement limiting payment to a
34 particular person or otherwise prohibiting further transfer or
35 negotiation of the instrument is not effective to prevent further
36 transfer or negotiation of the instrument.

37 (2) An indorsement stating a condition to the right of the indorsee
38 to receive payment does not affect the right of the indorsee to enforce

1 the instrument. A person paying the instrument or taking it for value
2 or collection may disregard the condition, and the rights and
3 liabilities of that person are not affected by whether the condition
4 has been fulfilled.

5 (3) If an instrument bears an indorsement (a) described in RCW
6 62A.4-201(2), or (b) in blank or to a particular bank using the words
7 "for deposit," "for collection," or other words indicating a purpose of
8 having the instrument collected by a bank for the indorser or for a
9 particular account, the following rules apply:

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

14 (ii) A depository bank that purchases the instrument or takes it
15 for collection when so indorsed converts the instrument unless the
16 amount paid by the bank with respect to the instrument is received by
17 the indorser or applied consistently with the indorsement.

18 (iii) A payor bank that is also the depository bank or that takes
19 the instrument for immediate payment over the counter from a person
20 other than a collecting bank converts the instrument unless the
21 proceeds of the instrument are received by the indorser or applied
22 consistently with the indorsement.

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

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

32 (a) Unless there is notice of breach of fiduciary duty as provided
33 in RCW 62A.3-307, a person who purchases the instrument from the
34 indorsee or takes the instrument from the indorsee for collection or
35 payment may pay the proceeds of payment or the value given for the
36 instrument to the indorsee without regard to whether the indorsee
37 violates a fiduciary duty to the indorser.

38 (b) A subsequent transferee of the instrument or person who pays
39 the instrument is neither given notice nor otherwise affected by the

1 restriction in the indorsement unless the transferee or payor knows
2 that the fiduciary dealt with the instrument or its proceeds in breach
3 of fiduciary duty.

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

9 (6) In an action to enforce the obligation of a party to pay the
10 instrument, the obligor has a defense if payment would violate an
11 indorsement to which this section applies and the payment is not
12 permitted by this section.

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

15 ~~((NEGOTIATION EFFECTIVE ALTHOUGH IT MAY BE RESCINDED. (1)~~
16 ~~Negotiation is effective to transfer the instrument although the~~
17 ~~negotiation is~~

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

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

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

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

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

27 REACQUISITION. Reacquisition of an instrument occurs if it is
28 transferred to a former holder, by negotiation or otherwise. A former
29 holder who reacquires the instrument may cancel indorsements made after
30 the reacquirer first became a holder of the instrument. If the
31 cancellation causes the instrument to be payable to the reacquirer or
32 to bearer, the reacquirer may negotiate the instrument. An indorser
33 whose indorsement is canceled is discharged, and the discharge is
34 effective against any subsequent holder.

35 PART 3

36 ~~((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 not~~
4 ~~he is the owner may transfer or negotiate it and, except as otherwise~~
5 ~~provided in RCW 62A.3-603 on payment or satisfaction, discharge it or~~
6 ~~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 who~~
18 ~~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~~

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

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

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

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

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

9 (2) Notice of discharge of a party, other than discharge in an
10 insolvency proceeding, is not notice of a defense under subsection (1),
11 but discharge is effective against a person who became a holder in due
12 course with notice of the discharge. Public filing or recording of a
13 document does not of itself constitute notice of a defense, claim in
14 recoupment, or claim to the instrument.

15 (3) Except to the extent a transferor or predecessor in interest
16 has rights as a holder in due course, a person does not acquire rights
17 of a holder in due course of an instrument taken (a) by legal process
18 or by purchase in an execution, bankruptcy, or creditor's sale or
19 similar proceeding, (b) by purchase as part of a bulk transaction not
20 in ordinary course of business of the transferor, or (c) as the
21 successor in interest to an estate or other organization.

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

28 (5) If (a) the person entitled to enforce an instrument has only a
29 security interest in the instrument and (b) the person obliged to pay
30 the instrument has a defense, claim in recoupment, or claim to the
31 instrument that may be asserted against the person who granted the
32 security interest, the person entitled to enforce the instrument may
33 assert rights as a holder in due course only to an amount payable under
34 the instrument which, at the time of enforcement of the instrument,
35 does not exceed the amount of the unpaid obligation secured.

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

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

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

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

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

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

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

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

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

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

21 (d) The instrument is issued or transferred in exchange for a
22 negotiable instrument; or

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

26 (2) "Consideration" means any consideration sufficient to support
27 a simple contract. The drawer or maker of an instrument has a defense
28 if the instrument is issued without consideration. If an instrument is
29 issued for a promise of performance, the issuer has a defense to the
30 extent performance of the promise is due and the promise has not been
31 performed. If an instrument is issued for value as stated in
32 subsection (1), the instrument is also issued for consideration.

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

35 ~~((NOTICE TO PURCHASER.— (1) The purchaser has notice of a claim or
36 defense if~~

37 ~~(a) the instrument is so incomplete, bears such visible evidence of
38 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;~~
31 ~~(f) that there has been default in payment of interest on the~~
32 ~~instrument or in payment of any other instrument, except one of the~~
33 ~~same series.~~
34 ~~(5) The filing or recording of a document does not of itself~~
35 ~~constitute notice within the provisions of this Article to a person who~~
36 ~~would otherwise be a holder in due course.~~
37 ~~(6) To be effective notice must be received at such time and in~~
38 ~~such manner as to give a reasonable opportunity to act on it.))~~

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

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

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

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

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

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

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

18 (c) If a due date with respect to principal has been accelerated,
19 the instrument becomes overdue on the day after the accelerated due
20 date.

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

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

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

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

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

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

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

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

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

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

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

6 (a) A defense of the obligor based on (i) infancy of the obligor to
7 the extent it is a defense to a simple contract, (ii) duress, lack of
8 legal capacity, or illegality of the transaction which, under other
9 law, nullifies the obligation of the obligor, (iii) fraud that induced
10 the obligor to sign the instrument with neither knowledge nor
11 reasonable opportunity to learn of its character or its essential
12 terms, or (iv) discharge of the obligor in insolvency proceedings;

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

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

22 (2) The right of a holder in due course to enforce the obligation
23 of a party to pay the instrument is subject to defenses of the obligor
24 stated in subsection (1)(a), but is not subject to defenses of the
25 obligor stated in subsection (1)(b) or claims in recoupment stated in
26 subsection (1)(c) against a person other than the holder.

27 (3) Except as stated in subsection (4), in an action to enforce the
28 obligation of a party to pay the instrument, the obligor may not assert
29 against the person entitled to enforce the instrument a defense, claim
30 in recoupment, or claim to the instrument (RCW 62A.3-306) of another
31 person, but the other person's claim to the instrument may be asserted
32 by the obligor if the other person is joined in the action and
33 personally asserts the claim against the person entitled to enforce the
34 instrument. An obligor is not obliged to pay the instrument if the
35 person seeking enforcement of the instrument does not have rights of a
36 holder in due course and the obligor proves that the instrument is a
37 lost or stolen instrument.

38 (4) In an action to enforce the obligation of an accommodation
39 party to pay an instrument, the accommodation party may assert against

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

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

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

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

30 ~~((BURDEN OF ESTABLISHING SIGNATURES, DEFENSES AND DUE COURSE. (1)~~
31 ~~Unless specifically denied in the pleadings each signature on an~~
32 ~~instrument is admitted. When the effectiveness of a signature is put~~
33 ~~in issue~~
34 ~~(a) the burden of establishing it is on the party claiming under~~
35 ~~the signature; but~~

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

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

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

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

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

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

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

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

25 (ii) In the case of an instrument payable to the represented person
26 or the fiduciary as such, the taker has notice of the breach of
27 fiduciary duty if the instrument is (A) taken in payment of or as
28 security for a debt known by the taker to be the personal debt of the
29 fiduciary, (B) taken in a transaction known by the taker to be for the
30 personal benefit of the fiduciary, or (C) deposited to an account other
31 than an account of the fiduciary, as such, or an account of the
32 represented person.

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

37 (iv) If an instrument is issued by the represented person or the
38 fiduciary as such, to the taker as payee, the taker has notice of the
39 breach of fiduciary duty if the instrument is (A) taken in payment of

1 or as security for a debt known by the taker to be the personal debt of
2 the fiduciary, (B) taken in a transaction known by the taker to be for
3 the personal benefit of the fiduciary, or (C) deposited to an account
4 other than an account of the fiduciary, as such, or an account of the
5 represented person.

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

8 PROOF OF SIGNATURES AND STATUS AS HOLDER IN DUE COURSE. (1) In an
9 action with respect to an instrument, the authenticity of, and
10 authority to make, each signature on the instrument is admitted unless
11 specifically denied in the pleadings. If the validity of a signature
12 is denied in the pleadings, the burden of establishing validity is on
13 the person claiming validity, but the signature is presumed to be
14 authentic and authorized unless the action is to enforce the liability
15 of the purported signer and the signer is dead or incompetent at the
16 time of trial of the issue of validity of the signature. If an action
17 to enforce the instrument is brought against a person as the
18 undisclosed principal of a person who signed the instrument as a party
19 to the instrument, the plaintiff has the burden of establishing that
20 the defendant is liable on the instrument as a represented person under
21 RCW 62A.3-402(1).

22 (2) If the validity of signatures is admitted or proved and there
23 is compliance with subsection (1), a plaintiff producing the instrument
24 is entitled to payment if the plaintiff proves entitlement to enforce
25 the instrument under RCW 62A.3-301, unless the defendant proves a
26 defense or claim in recoupment. If a defense or claim in recoupment is
27 proved, the right to payment of the plaintiff is subject to the defense
28 or claim, except to the extent the plaintiff proves that the plaintiff
29 has rights of a holder in due course which are not subject to the
30 defense or claim.

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

33 ENFORCEMENT OF LOST, DESTROYED, OR STOLEN INSTRUMENT. (1) A person
34 not in possession of an instrument is entitled to enforce the
35 instrument if (a) the person was in possession of the instrument and
36 entitled to enforce it when loss of possession occurred, (b) the loss
37 of possession was not the result of a transfer by the person or a

1 lawful seizure, and (c) the person cannot reasonably obtain possession
2 of the instrument because the instrument was destroyed, its whereabouts
3 cannot be determined, or it is in the wrongful possession of an unknown
4 person or a person that cannot be found or is not amenable to service
5 of process.

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

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

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

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

30 (a) In the case of an uncertified check, suspension of the
31 obligation continues until dishonor of the check or until it is paid or
32 certified. Payment or certification of the check results in discharge
33 of the obligation to the extent of the amount of the check.

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

37 (c) Except as provided in subsection (2)(d), if the check or note
38 is dishonored and the obligee of the obligation for which the

1 instrument was taken is the person entitled to enforce the instrument,
2 the obligee may enforce either the instrument or the obligation. In
3 the case of an instrument of a third person which is negotiated to the
4 obligee by the obligor, discharge of the obligor on the instrument also
5 discharges the obligation.

6 (d) If the person entitled to enforce the instrument taken for an
7 obligation is a person other than the obligee, the obligee may not
8 enforce the obligation to the extent the obligation is suspended. If
9 the obligee is the person entitled to enforce the instrument but no
10 longer has possession of it because it was lost, stolen, or destroyed,
11 the obligation may not be enforced to the extent of the amount payable
12 on the instrument, and to that extent the obligee's rights against the
13 obligor are limited to enforcement of the instrument.

14 (3) If an instrument other than one described in subsection (1) or
15 (2) is taken for an obligation, the effect is (a) that stated in
16 subsection (1) if the instrument is one on which a bank is liable as
17 maker or acceptor, or (b) that stated in subsection (2) in any other
18 case.

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

21 ACCORD AND SATISFACTION BY USE OF INSTRUMENT. (1) If a person
22 against whom a claim is asserted proves that (a) that person in good
23 faith tendered an instrument to the claimant as full satisfaction of
24 the claim, (b) the amount of the claim was unliquidated or subject to
25 a bona fide dispute, and (c) the claimant obtained payment of the
26 instrument, the following subsections apply.

27 (2) Unless subsection (3) applies, the claim is discharged if the
28 person against whom the claim is asserted proves that the instrument or
29 an accompanying written communication contained a conspicuous statement
30 to the effect that the instrument was tendered as full satisfaction of
31 the claim.

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

34 (a) The claimant, if an organization, proves that (i) within a
35 reasonable time before the tender, the claimant sent a conspicuous
36 statement to the person against whom the claim is asserted that
37 communications concerning disputed debts, including an instrument
38 tendered as full satisfaction of a debt, are to be sent to a designated

1 person, office, or place, and (ii) the instrument or accompanying
2 communication was not received by that designated person, office, or
3 place.

4 (b) The claimant, whether or not an organization, proves that
5 within 90 days after payment of the instrument, the claimant tendered
6 repayment of the amount of the instrument to the person against whom
7 the claim is asserted. This subsection (3)(b) does not apply if the
8 claimant is an organization that sent a statement complying with
9 subsection (3)(a)(i).

10 (4) A claim is discharged if the person against whom the claim is
11 asserted proves that within a reasonable time before collection of the
12 instrument was initiated, the claimant, or an agent of the claimant
13 having direct responsibility with respect to the disputed obligation,
14 knew that the instrument was tendered in full satisfaction of the
15 claim.

16 PART 4

17 LIABILITY OF PARTIES

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

20 SIGNATURE. (1) ~~((No))~~ A person is not liable on an instrument
21 unless ~~((his signature appears thereon))~~ (a) the person signed the
22 instrument, or (b) the person is represented by an agent or
23 representative who signed the instrument and the signature is binding
24 on the represented person under RCW 62A.3-402.

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

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

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

1 SIGNATURE BY REPRESENTATIVE. (1) If a person acting, or purporting
2 to act, as a representative signs an instrument by signing either the
3 name of the represented person or the name of the signer, the
4 represented person is bound by the signature to the same extent the
5 represented person would be bound if the signature were on a simple
6 contract. If the represented person is bound, the signature of the
7 representative is the "authorized signature of the represented person"
8 and the represented person is liable on the instrument, whether or not
9 identified in the instrument.

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

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

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

26 (3) If a representative signs the name of the representative as
27 drawer of a check without indication of the representative status and
28 the check is payable from an account of the represented person who is
29 identified on the check, the signer is not liable on the check if the
30 signature is an authorized signature of the represented person.

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

33 ~~((SIGNATURE BY AUTHORIZED REPRESENTATIVE.—(1) A signature may be~~
34 ~~made by an agent or other representative, and his authority to make it~~
35 ~~may be established as in other cases of representation. No particular~~
36 ~~form of appointment is necessary to establish such authority.~~

37 ~~(2) An authorized representative who signs his own name to an~~
38 ~~instrument~~

1 ~~(a) is personally obligated if the instrument neither names the~~
2 ~~person represented nor shows that the representative signed in a~~
3 ~~representative capacity;~~

4 ~~(b) except as otherwise established between the immediate parties,~~
5 ~~is personally obligated if the instrument names the person represented~~
6 ~~but does not show that the representative signed in a representative~~
7 ~~capacity, or if the instrument does not name the person represented but~~
8 ~~does show that the representative signed in a representative capacity.~~

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

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

17 (2) If the signature of more than one person is required to
18 constitute the authorized signature of an organization, the signature
19 of the organization is unauthorized if one of the required signatures
20 is lacking.

21 (3) The civil or criminal liability of a person who makes an
22 unauthorized signature is not affected by any provision of this Article
23 which makes the unauthorized signature effective for the purposes of
24 this Article.

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

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

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

35 IMPOSTORS; FICTITIOUS PAYEES. (1) If an impostor, by use of the
36 mails or otherwise, induces the issuer of an instrument to issue the
37 instrument to the impostor, or to a person acting in concert with the
38 impostor, by impersonating the payee of the instrument or a person

1 authorized to act for the payee, an indorsement of the instrument by
2 any person in the name of the payee is effective as the indorsement of
3 the payee in favor of a person who, in good faith, pays the instrument
4 or takes it for value or for collection.

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

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

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

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

21 (4) With respect to an instrument to which subsection (1) or (2)
22 applies, if a person paying the instrument or taking it for value or
23 for collection fails to exercise ordinary care in paying or taking the
24 instrument and that failure substantially contributes to loss resulting
25 from payment of the instrument, the person bearing the loss may recover
26 from the person failing to exercise ordinary care to the extent the
27 failure to exercise ordinary care contributed to the loss.

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

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

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

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

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

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

6 EMPLOYER'S RESPONSIBILITY FOR FRAUDULENT INDORSEMENT BY EMPLOYEE.

7 (1) In this section:

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

10 (b) "Fraudulent indorsement" means (i) in the case of an instrument
11 payable to the employer, a forged indorsement purporting to be that of
12 the employer, or (ii) in the case of an instrument with respect to
13 which the employer is the issuer, a forged indorsement purporting to be
14 that of the person identified as payee.

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

28 (2) For the purpose of determining the rights and liabilities of a
29 person who, in good faith, pays an instrument or takes it for value or
30 for collection, if an employer entrusted an employee with
31 responsibility with respect to the instrument and the employee or a
32 person acting in concert with the employee makes a fraudulent
33 indorsement of the instrument, the indorsement is effective as the
34 indorsement of the person to whom the instrument is payable if it is
35 made in the name of that person. If the person paying the instrument
36 or taking it for value or for collection fails to exercise ordinary
37 care in paying or taking the instrument and that failure substantially
38 contributes to loss resulting from the fraud, the person bearing the
39 loss may recover from the person failing to exercise ordinary care to

1 the extent the failure to exercise ordinary care contributed to the
2 loss.

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

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

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

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

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

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

33 ALTERATION. ((1) Any alteration of an instrument is material
34 which changes the contract of any party thereto in any respect,
35 including any such change in

36 (a) the number or relations of the parties; or

1 ~~(b) an incomplete instrument, by completing it otherwise than as~~
2 ~~authorized; or~~

3 ~~(c) the writing as signed, by adding to it or by removing any part~~
4 ~~of it.~~

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

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

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

13 ~~(3) A subsequent holder in due course may in all cases enforce the~~
14 ~~instrument according to its original tenor, and when an incomplete~~
15 ~~instrument has been completed, he may enforce it as completed.)) (1)~~
16 "Alteration" means (a) an unauthorized change in an instrument that
17 purports to modify in any respect the obligation of a party, or (b) an
18 unauthorized addition of words or numbers or other change to an
19 incomplete instrument relating to the obligation of a party.

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

25 ~~(3) A payor bank or drawee paying a fraudulently altered instrument~~
26 or a person taking it for value, in good faith and without notice of
27 the alteration, may enforce rights with respect to the instrument (a)
28 according to its original terms, or (b) in the case of an incomplete
29 instrument altered by unauthorized completion, according to its terms
30 as completed.

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

33 ~~((CONSIDERATION. Want or failure of consideration is a defense as~~
34 ~~against any person not having the rights of a holder in due course (RCW~~
35 ~~62A.3-305), except that no consideration is necessary for an instrument~~
36 ~~or obligation thereon given in payment of or as security for an~~
37 ~~antecedent obligation of any kind. Nothing in this section shall be~~
38 ~~taken to displace any statute outside this Title under which a promise~~

1 ~~is enforceable notwithstanding lack or failure of consideration.~~
2 ~~Partial failure of consideration is a defense pro tanto whether or not~~
3 ~~the failure is in an ascertained or liquidated amount.))~~

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

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

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

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

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

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

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

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

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

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

1 written on the draft, and may consist of his signature alone.— It
2 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
29 certified check or the issuer of a cashier's check or teller's check
30 bought from the issuer.

31 (2) If the obligated bank wrongfully (a) refuses to pay a cashier's
32 check or certified check, (b) stops payment of a teller's check, or (c)
33 refuses to pay a dishonored teller's check, the person asserting the
34 right to enforce the check is entitled to compensation for expenses and
35 loss of interest resulting from the nonpayment and may recover
36 consequential damages if the obligated bank refuses to pay after
37 receiving notice of particular circumstances giving rise to the
38 damages.

1 (3) Expenses or consequential damages under subsection (2) are not
2 recoverable if the refusal of the obligated bank to pay occurs because
3 (a) the bank suspends payments, (b) the obligated bank asserts a claim
4 or defense of the bank that it has reasonable grounds to believe is
5 available against the person entitled to enforce the instrument, (c)
6 the obligated bank has a reasonable doubt whether the person demanding
7 payment is the person entitled to enforce the instrument, or (d)
8 payment is prohibited by law.

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

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

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

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

22 OBLIGATION OF ISSUER OF NOTE OR CASHIER'S CHECK. The issuer of a
23 note or cashier's check or other draft drawn on the drawer is obliged
24 to pay the instrument (1) according to its terms at the time it was
25 issued or, if not issued, at the time it first came into possession of
26 a holder, or (2) if the issuer signed an incomplete instrument,
27 according to its terms when completed, to the extent stated in RCW
28 62A.3-115 and 62A.3-407. The obligation is owed to a person entitled
29 to enforce the instrument or to an indorser who paid the instrument
30 under RCW 62A.3-415.

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

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

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

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

8 OBLIGATION OF ACCEPTOR. (1) The acceptor of a draft is obliged to
9 pay the draft (a) according to its terms at the time it was accepted,
10 even though the acceptance states that the draft is payable "as
11 originally drawn" or equivalent terms, (b) if the acceptance varies the
12 terms of the draft, according to the terms of the draft as varied, or
13 (c) if the acceptance is of a draft that is an incomplete instrument,
14 according to its terms when completed, to the extent stated in RCW
15 62A.3-115 and 62A.3-407. The obligation is owed to a person entitled
16 to enforce the draft or to the drawer or an indorser who paid the draft
17 under RCW 62A.3-414 or 62A.3-415.

18 (2) If the certification of a check or other acceptance of a draft
19 states the amount certified or accepted, the obligation of the acceptor
20 is that amount. If (a) the certification or acceptance does not state
21 an amount, (b) the amount of the instrument is subsequently raised, and
22 (c) the instrument is then negotiated to a holder in due course, the
23 obligation of the acceptor is the amount of the instrument at the time
24 it was taken by the holder in due course.

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

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

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

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

1 (2) If an unaccepted draft is dishonored, the drawer is obliged to
2 pay the draft (a) according to its terms at the time it was issued or,
3 if not issued, at the time it first came into possession of a holder,
4 or (b) if the drawer signed an incomplete instrument, according to its
5 terms when completed, to the extent stated in RCW 62A.3-115 and
6 62A.3-407. The obligation is owed to a person entitled to enforce the
7 draft or to an indorser who paid the draft under RCW 62A.3-415.

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

10 (4) If a draft is accepted and the acceptor is not a bank, the
11 obligation of the drawer to pay the draft if the draft is dishonored by
12 the acceptor is the same as the obligation of an indorser under RCW
13 62A.3-415 (1) and (3).

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

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

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

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

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

36 ~~(3) As against a holder in due course and without notice of the~~
37 ~~accommodation oral proof of the accommodation is not admissible to give~~
38 ~~the accommodation party the benefit of discharges dependent on his~~

1 character as such. In other cases the accommodation character may be
2 shown by oral proof.

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

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

8 OBLIGATION OF INDORSER. (1) Subject to subsections (2), (3), and
9 (4) and to RCW 62A.3-419(4), if an instrument is dishonored, an
10 indorser is obliged to pay the amount due on the instrument (a)
11 according to the terms of the instrument at the time it was indorsed,
12 or (b) if the indorser indorsed an incomplete instrument, according to
13 its terms when completed, to the extent stated in RCW 62A.3-115 and
14 62A.3-407. The obligation of the indorser is owed to a person entitled
15 to enforce the instrument or to a subsequent indorser who paid the
16 instrument under this section.

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

20 (3) If notice of dishonor of an instrument is required by RCW
21 62A.3-503 and notice of dishonor complying with that section is not
22 given to an indorser, the liability of the indorser under subsection
23 (1) is discharged.

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

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

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

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

36 (2) "Collection guaranteed" or equivalent words added to a
37 signature mean that the signer engages that if the instrument is not
38 paid when due he will pay it according to its tenor, but only after the

1 holder has reduced his claim against the maker or acceptor to judgment
2 and execution has been returned unsatisfied, or after the maker or
3 acceptor has become insolvent or it is otherwise apparent that it is
4 useless to proceed against him.

5 (3) ~~Words of guaranty which do not otherwise specify guarantee~~
6 ~~payment.~~

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

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

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

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

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

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

20 (c) The instrument has not been altered;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 ~~(2) Any person who transfers an instrument and receives~~
32 ~~consideration warrants to his transferee and if the transfer is by~~
33 ~~indorsement to any subsequent holder who takes the instrument in good~~
34 ~~faith that~~

35 ~~(a) he has a good title to the instrument or is authorized to~~
36 ~~obtain payment or acceptance on behalf of one who has a good title and~~
37 ~~the transfer is otherwise rightful; and~~

38 ~~(b) all signatures are genuine or authorized; and~~

1 ~~(c) the instrument has not been materially altered; and~~
2 ~~(d) no defense of any party is good against him; and~~
3 ~~(e) he has no knowledge of any insolvency proceeding instituted~~
4 ~~with respect to the maker or acceptor or the drawer of an unaccepted~~
5 ~~instrument.~~

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

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

13 PRESENTMENT WARRANTIES. (1) If an unaccepted draft is presented to
14 the drawee for payment or acceptance and the drawee pays or accepts the
15 draft, (a) the person obtaining payment or acceptance, at the time of
16 presentment, and (b) a previous transferor of the draft, at the time of
17 transfer, warrant to the drawee making payment or accepting the draft
18 in good faith that:

19 (i) The warrantor is, or was, at the time the warrantor transferred
20 the draft, a person entitled to enforce the draft or authorized to
21 obtain payment or acceptance of the draft on behalf of a person
22 entitled to enforce the draft;

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

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

26 (2) A drawee making payment may recover from any warrantor damages
27 for breach of warranty equal to the amount paid by the drawee less the
28 amount the drawee received or is entitled to receive from the drawer
29 because of the payment. In addition, the drawee is entitled to
30 compensation for expenses and loss of interest resulting from the
31 breach. The right of the drawee to recover damages under this
32 subsection is not affected by any failure of the drawee to exercise
33 ordinary care in making payment. If the drawee accepts the draft,
34 breach of warranty is a defense to the obligation of the acceptor. If
35 the acceptor makes payment with respect to the draft, the acceptor is
36 entitled to recover from any warrantor for breach of warranty the
37 amounts stated in this subsection.

38 (3) If a drawee asserts a claim for breach of warranty under
39 subsection (1) based on an unauthorized indorsement of the draft or an

1 alteration of the draft, the warrantor may defend by proving that the
2 indorsement is effective under RCW 62A.3-404 or 62A.3-405 or the drawer
3 is precluded under RCW 62A.3-406 or 62A.4-406 from asserting against
4 the drawee the unauthorized indorsement or alteration.

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

9 (i) The person obtaining payment and a prior transferor of the
10 instrument warrant to the person making payment in good faith that the
11 warrantor is, or was, at the time the warrantor transferred the
12 instrument, a person entitled to enforce the instrument or authorized
13 to obtain payment on behalf of a person entitled to enforce the
14 instrument.

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

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

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

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

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

35 PAYMENT OR ACCEPTANCE BY MISTAKE. (1) Except as provided in
36 subsection (3), if the drawee of a draft pays or accepts the draft and
37 the drawee acted on the mistaken belief that (a) payment of the draft
38 had not been stopped pursuant to RCW 62A.4-403 or (b) the signature of

1 the drawer of the draft was authorized, the drawee may recover the
2 amount of the draft from the person to whom or for whose benefit
3 payment was made or, in the case of acceptance, may revoke the
4 acceptance. Rights of the drawee under this subsection are not
5 affected by failure of the drawee to exercise ordinary care in paying
6 or accepting the draft.

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

13 (3) The remedies provided by subsection (1) or (2) may not be
14 asserted against a person who took the instrument in good faith and for
15 value or who in good faith changed position in reliance on the payment
16 or acceptance. This subsection does not limit remedies provided by RCW
17 62A.3-417 or 62A.4-407.

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

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

26 ~~((CONVERSION OF INSTRUMENT; INNOCENT REPRESENTATIVE. (1) An~~
27 ~~instrument is converted when~~

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

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

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

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

37 ~~(3) Subject to the provisions of this Title concerning restrictive~~
38 ~~indorsements a representative, including a depositary or collecting~~

1 bank, who has in good faith and in accordance with the reasonable
2 commercial standards applicable to the business of such representative
3 dealt with an instrument or its proceeds on behalf of one who was not
4 the true owner is not liable in conversion or otherwise to the true
5 owner beyond the amount of any proceeds remaining in his hands.

6 (4) ~~An intermediary bank or payor bank which is not a depositary
7 bank is not liable in conversion solely by reason of the fact that
8 proceeds of an item indorsed restrictively (RCW 62A.3-205 and RCW
9 62A.3-206) are not paid or applied consistently with the restrictive
10 indorsement of an indorser other than its immediate transferor.))~~

11 INSTRUMENTS SIGNED FOR ACCOMMODATION. (1) If an instrument is
12 issued for value given for the benefit of a party to the instrument
13 ("accommodated party") and another party to the instrument
14 ("accommodation party") signs the instrument for the purpose of
15 incurring liability on the instrument without being a direct
16 beneficiary of the value given for the instrument, the instrument is
17 signed by the accommodation party "for accommodation."

18 (2) An accommodation party may sign the instrument as maker,
19 drawer, acceptor, or indorser and, subject to subsection (4), is
20 obliged to pay the instrument in the capacity in which the
21 accommodation party signs. The obligation of an accommodation party
22 may be enforced notwithstanding any statute of frauds and whether or
23 not the accommodation party receives consideration for the
24 accommodation.

25 (3) A person signing an instrument is presumed to be an
26 accommodation party and there is notice that the instrument is signed
27 for accommodation if the signature is an anomalous indorsement or is
28 accompanied by words indicating that the signer is acting as surety or
29 guarantor with respect to the obligation of another party to the
30 instrument. Except as provided in RCW 62A.3-605, the obligation of an
31 accommodation party to pay the instrument is not affected by the fact
32 that the person enforcing the obligation had notice when the instrument
33 was taken by that person that the accommodation party signed the
34 instrument for accommodation.

35 (4) If the signature of a party to an instrument is accompanied by
36 words indicating unambiguously that the party is guaranteeing
37 collection rather than payment of the obligation of another party to
38 the instrument, the signer is obliged to pay the amount due on the
39 instrument to a person entitled to enforce the instrument only if (a)

1 execution of judgment against the other party has been returned
2 unsatisfied, (b) the other party is insolvent or in an insolvency
3 proceeding, (c) the other party cannot be served with process, or (d)
4 it is otherwise apparent that payment cannot be obtained from the other
5 party.

6 (5) An accommodation party who pays the instrument is entitled to
7 reimbursement from the accommodated party and is entitled to enforce
8 the instrument against the accommodated party. An accommodated party
9 who pays the instrument has no right of recourse against, and is not
10 entitled to contribution from, an accommodation party.

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

13 CONVERSION OF INSTRUMENT. (1) The law applicable to conversion of
14 personal property applies to instruments. An instrument is also
15 converted if it is taken by transfer, other than a negotiation, from a
16 person not entitled to enforce the instrument or a bank makes or
17 obtains payment with respect to the instrument for a person not
18 entitled to enforce the instrument or receive payment. An action for
19 conversion of an instrument may not be brought by (a) the issuer or
20 acceptor of the instrument or (b) a payee or indorsee who did not
21 receive delivery of the instrument either directly or through delivery
22 to an agent or a co-payee.

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

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

31 PART 5

32 ((PRESENTMENT, NOTICE OF)) DISHONOR ((AND PROTEST))

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

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

4 (a) presentment for acceptance is necessary to charge the drawer
5 and indorsers of a draft where the draft so provides, or is payable
6 elsewhere than at the residence or place of business of the drawee, or
7 its date of payment depends upon such presentment. The holder may at
8 his option present for acceptance any other draft payable at a stated
9 date;

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

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

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

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

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

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

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

31 PRESENTMENT. (1) "Presentment" means a demand made by or on behalf
32 of a person entitled to enforce an instrument (a) to pay the instrument
33 made to the drawee or a party obliged to pay the instrument or, in the
34 case of a note or accepted draft payable at a bank, to the bank, or (b)
35 to accept a draft made to the drawee.

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

38 (a) Presentment may be made at the place of payment of the
39 instrument and must be made at the place of payment if the instrument

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

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

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

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

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

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

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

30 ~~(b) any drawer or the acceptor of a draft payable at a bank or the~~
31 ~~maker of a note payable at a bank who because the drawee or payor bank~~
32 ~~becomes insolvent during the delay is deprived of funds maintained with~~
33 ~~the drawee or payor bank to cover the instrument may discharge his~~
34 ~~liability by written assignment to the holder of his rights against the~~
35 ~~drawee or payor bank in respect of such funds, but such drawer,~~
36 ~~acceptor or maker is not otherwise discharged.~~

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

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

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

6 (b) If the note is not payable on demand and is payable at or
7 through a bank or the terms of the note require presentment, the note
8 is dishonored if presentment is duly made and the note is not paid on
9 the day it becomes payable or the day of presentment, whichever is
10 later.

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

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

16 (a) If a check is duly presented for payment to the payor bank
17 otherwise than for immediate payment over the counter, the check is
18 dishonored if the payor bank makes timely return of the check or sends
19 timely notice of dishonor or nonpayment under RCW 62A.4-301 or
20 62A.4-302, or becomes accountable for the amount of the check under RCW
21 62A.4-302.

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

25 (c) If a draft is payable on a date stated in the draft, the draft
26 is dishonored if (i) presentment for payment is duly made to the drawee
27 and payment is not made on the day the draft becomes payable or the day
28 of presentment, whichever is later, or (ii) presentment for acceptance
29 is duly made before the day the draft becomes payable and the draft is
30 not accepted on the day of presentment.

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

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

1 (4) Dishonor of an accepted draft is governed by the following
2 rules:

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

6 (b) If the draft is not payable on demand, the draft is dishonored
7 if presentment for payment is duly made to the acceptor and payment is
8 not made on the day it becomes payable or the day of presentment,
9 whichever is later.

10 (5) In any case in which presentment is otherwise required for
11 dishonor under this section and presentment is excused under RCW
12 62A.3-504, dishonor occurs without presentment if the instrument is not
13 duly accepted or paid.

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

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

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

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

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

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

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

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

35 ~~(2) A reasonable time for presentment is determined by the nature~~
36 ~~of the instrument, any usage of banking or trade and the facts of the~~
37 ~~particular case.— In the case of an uncertified check which is drawn~~
38 ~~and payable within the United States and which is not a draft drawn by~~

1 a bank the following are presumed to be reasonable periods within which
2 to present for payment or to initiate bank collection:

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

5 (b) with respect to the liability of an endorser, seven days after
6 his indorsement.

7 (3) Where any presentment is due on a day which is not a full
8 business day for either the person making presentment or the party to
9 pay or accept, presentment is due on the next following day which is a
10 full business day for both parties.

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

13 NOTICE OF DISHONOR. (1) The obligation of an indorser stated in
14 RCW 62A.3-415(1) and the obligation of a drawer stated in RCW
15 62A.3-414(4) may not be enforced unless (a) the indorser or drawer is
16 given notice of dishonor of the instrument complying with this section
17 or (b) notice of dishonor is excused under RCW 62A.3-504(2).

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

24 (3) Subject to RCW 62A.3-504(3), with respect to an instrument
25 taken for collection by a collecting bank, notice of dishonor must be
26 given (a) by the bank before midnight of the next banking day following
27 the banking day on which the bank receives notice of dishonor of the
28 instrument, or (b) by any other person within 30 days following the day
29 on which the person receives notice of dishonor. With respect to any
30 other instrument, notice of dishonor must be given within 30 days
31 following the day on which dishonor occurs.

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

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

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

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

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

4 ~~(c) at the place of acceptance or payment specified in the~~
5 ~~instrument or if there be none at the place of business or residence of~~
6 ~~the party to accept or pay. If neither the party to accept or pay nor~~
7 ~~anyone authorized to act for him is present or accessible at such place~~
8 ~~presentment is excused.~~

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

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

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

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

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

18 EXCUSED PRESENTMENT AND NOTICE OF DISHONOR. (1) Presentment for
19 payment or acceptance of an instrument is excused if (a) the person
20 entitled to present the instrument cannot with reasonable diligence
21 make presentment, (b) the maker or acceptor has repudiated an
22 obligation to pay the instrument or is dead or in insolvency
23 proceedings, (c) by the terms of the instrument presentment is not
24 necessary to enforce the obligation of indorsers or the drawer, (d) the
25 drawer or indorser whose obligation is being enforced has waived
26 presentment or otherwise has no reason to expect or right to require
27 that the instrument be paid or accepted, or (e) the drawer instructed
28 the drawee not to pay or accept the draft or the drawee was not
29 obligated to the drawer to pay the draft.

30 (2) Notice of dishonor is excused if (a) by the terms of the
31 instrument notice of dishonor is not necessary to enforce the
32 obligation of a party to pay the instrument, or (b) the party whose
33 obligation is being enforced waived notice of dishonor. A waiver of
34 presentment is also a waiver of notice of dishonor.

35 (3) Delay in giving notice of dishonor is excused if the delay was
36 caused by circumstances beyond the control of the person giving the
37 notice and the person giving the notice exercised reasonable diligence
38 after the cause of the delay ceased to operate.

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).))

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

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

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

1 (~~EFFECT OF DISCHARGE AGAINST HOLDER IN DUE COURSE.—No discharge~~
2 ~~of any party provided by this Article is effective against a subsequent~~
3 ~~holder in due course unless he has notice thereof when he takes the~~
4 ~~instrument.~~)

5 PAYMENT. (1) Subject to subsection (2), an instrument is paid to
6 the extent payment is made (a) by or on behalf of a party obliged to
7 pay the instrument, and (b) to a person entitled to enforce the
8 instrument. To the extent of the payment, the obligation of the party
9 obliged to pay the instrument is discharged even though payment is made
10 with knowledge of a claim to the instrument under RCW 62A.3-306 by
11 another person.

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

14 (a) A claim to the instrument under RCW 62A.3-306 is enforceable
15 against the party receiving payment and (i) payment is made with
16 knowledge by the payor that payment is prohibited by injunction or
17 similar process of a court of competent jurisdiction, or (ii) in the
18 case of an instrument other than a cashier's check, teller's check, or
19 certified check, the party making payment accepted, from the person
20 having a claim to the instrument, indemnity against loss resulting from
21 refusal to pay the person entitled to enforce the instrument; or

22 (b) The person making payment knows that the instrument is a stolen
23 instrument and pays a person it knows is in wrongful possession of the
24 instrument.

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

27 (~~PAYMENT OR SATISFACTION.—(1) The liability of any party is~~
28 ~~discharged to the extent of his payment or satisfaction to the holder~~
29 ~~even though it is made with knowledge of a claim of another person to~~
30 ~~the instrument unless prior to such payment or satisfaction the person~~
31 ~~making the claim either supplies indemnity deemed adequate by the party~~
32 ~~seeking the discharge or enjoins payment or satisfaction by order of a~~
33 ~~court of competent jurisdiction in an action in which the adverse~~
34 ~~claimant and the holder are parties.—This subsection does not,~~
35 ~~however, result in the discharge of the liability~~

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

1 ~~(b) of a party (other than an intermediary bank or a payor bank~~
2 ~~which is not a depository bank) who pays or satisfies the holder of an~~
3 ~~instrument which has been restrictively indorsed in a manner not~~
4 ~~consistent with the terms of such restrictive indorsement.~~

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

9 TENDER OF PAYMENT. (1) If tender of payment of an obligation to
10 pay an instrument is made to a person entitled to enforce the
11 instrument, the effect of tender is governed by principles of law
12 applicable to tender of payment under a simple contract.

13 (2) If tender of payment of an obligation to pay an instrument is
14 made to a person entitled to enforce the instrument and the tender is
15 refused, there is discharge, to the extent of the amount of the tender,
16 of the obligation of an indorser or accommodation party having a right
17 of recourse with respect to the obligation to which the tender relates.

18 (3) If tender of payment of an amount due on an instrument is made
19 to a person entitled to enforce the instrument, the obligation of the
20 obligor to pay interest after the due date on the amount tendered is
21 discharged. If presentment is required with respect to an instrument
22 and the obligor is able and ready to pay on the due date at every place
23 of payment stated in the instrument, the obligor is deemed to have made
24 tender of payment on the due date to the person entitled to enforce the
25 instrument.

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

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

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

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

37 DISCHARGE BY CANCELLATION OR RENUNCIATION. (1) A person entitled
38 to enforce an instrument, with or without consideration, may discharge

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

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

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

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

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

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

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

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

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

30 (3) If a person entitled to enforce an instrument agrees, with or
31 without consideration, to an extension of the due date of the
32 obligation of a party to pay the instrument, the extension discharges
33 an indorser or accommodation party having a right of recourse against
34 the party whose obligation is extended to the extent the indorser or
35 accommodation party proves that the extension caused loss to the
36 indorser or accommodation party with respect to the right of recourse.

37 (4) If a person entitled to enforce an instrument agrees, with or
38 without consideration, to a material modification of the obligation of

1 a party other than an extension of the due date, the modification
2 discharges the obligation of an indorser or accommodation party having
3 a right of recourse against the person whose obligation is modified to
4 the extent the modification causes loss to the indorser or
5 accommodation party with respect to the right of recourse. The loss
6 suffered by the indorser or accommodation party as a result of the
7 modification is equal to the amount of the right of recourse unless the
8 person enforcing the instrument proves that no loss was caused by the
9 modification or that the loss caused by the modification was an amount
10 less than the amount of the right of recourse.

11 (5) If the obligation of a party to pay an instrument is secured by
12 an interest in collateral and a person entitled to enforce the
13 instrument impairs the value of the interest in collateral, the
14 obligation of an indorser or accommodation party having a right of
15 recourse against the obligor is discharged to the extent of the
16 impairment. The value of an interest in collateral is impaired to the
17 extent (a) the value of the interest is reduced to an amount less than
18 the amount of the right of recourse of the party asserting discharge,
19 or (b) the reduction in value of the interest causes an increase in the
20 amount by which the amount of the right of recourse exceeds the value
21 of the interest. The burden of proving impairment is on the party
22 asserting discharge.

23 (6) If the obligation of a party is secured by an interest in
24 collateral not provided by an accommodation party and a person entitled
25 to enforce the instrument impairs the value of the interest in
26 collateral, the obligation of any party who is jointly and severally
27 liable with respect to the secured obligation is discharged to the
28 extent the impairment causes the party asserting discharge to pay more
29 than that party would have been obliged to pay, taking into account
30 rights of contribution, if impairment had not occurred. If the party
31 asserting discharge is an accommodation party not entitled to discharge
32 under subsection (5), the party is deemed to have a right to
33 contribution based on joint and several liability rather than a right
34 to reimbursement. The burden of proving impairment is on the party
35 asserting discharge.

36 (7) Under subsection (5) or (6), impairing value of an interest in
37 collateral includes (a) failure to obtain or maintain perfection or
38 recordation of the interest in collateral, (b) release of collateral
39 without substitution of collateral of equal value, (c) failure to

1 perform a duty to preserve the value of collateral owed, under Article
2 9 or other law, to a debtor or surety or other person secondarily
3 liable, or (d) failure to comply with applicable law in disposing of
4 collateral.

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

9 (9) A party is not discharged under this section if (a) the party
10 asserting discharge consents to the event or conduct that is the basis
11 of the discharge, or (b) the instrument or a separate agreement of the
12 party provides for waiver of discharge under this section either
13 specifically or by general language indicating that parties waive
14 defenses based on suretyship or impairment of collateral.

15 NEW SECTION. Sec. 70. The following acts or parts of acts are
16 each repealed:

17 (1) RCW 62A.3-120 and 1965 ex.s. c 157 s 3-120;

18 (2) RCW 62A.3-121 and 1965 ex.s. c 157 s 3-121;

19 (3) RCW 62A.3-122 and 1965 ex.s. c 157 s 3-122;

20 (4) RCW 62A.3-208 and 1965 ex.s. c 157 s 3-208;

21 (5) RCW 62A.3-506 and 1965 ex.s. c 157 s 3-506;

22 (6) RCW 62A.3-507 and 1965 ex.s. c 157 s 3-507;

23 (7) RCW 62A.3-508 and 1965 ex.s. c 157 s 3-508;

24 (8) RCW 62A.3-509 and 1965 ex.s. c 157 s 3-509;

25 (9) RCW 62A.3-510 and 1965 ex.s. c 157 s 3-510;

26 (10) RCW 62A.3-511 and 1965 ex.s. c 157 s 3-511;

27 (11) RCW 62A.3-512 and 1990 c 203 s 2;

28 (12) RCW 62A.3-515 and 1991 c 168 s 1, 1986 c 128 s 1, 1981 c 254
29 s 1, 1969 c 62 s 1, & 1967 ex.s. c 23 s 1;

30 (13) RCW 62A.3-520 and 1991 c 168 s 2, 1986 c 128 s 2, 1981 c 254
31 s 2, & 1969 c 62 s 2;

32 (14) RCW 62A.3-522 and 1981 c 254 s 3;

33 (15) RCW 62A.3-525 and 1981 c 254 s 4 & 1969 c 62 s 3;

34 (16) RCW 62A.3-606 and 1965 ex.s. c 157 s 3-606;

35 (17) RCW 62A.3-701 and 1965 ex.s. c 157 s 3-701;

36 (18) RCW 62A.3-801 and 1965 ex.s. c 157 s 3-801;

37 (19) RCW 62A.3-802 and 1965 ex.s. c 157 s 3-802;

38 (20) RCW 62A.3-803 and 1965 ex.s. c 157 s 3-803;

1 (21) RCW 62A.3-804 and 1965 ex.s. c 157 s 3-804; and
2 (22) RCW 62A.3-805 and 1965 ex.s. c 157 s 3-805.

3 ARTICLE 4
4 BANK DEPOSITS AND COLLECTIONS
5 PART 1
6 GENERAL PROVISIONS AND DEFINITIONS

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

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

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

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

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

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

27 VARIATION BY AGREEMENT; MEASURE OF DAMAGES; (~~CERTAIN~~) ACTION
28 CONSTITUTING ORDINARY CARE. (1) The effect of the provisions of this
29 Article may be varied by agreement (~~except that no agreement can~~),
30 but the parties to the agreement cannot disclaim a bank's
31 responsibility for its (~~own~~) lack of good faith or failure to
32 exercise ordinary care or (~~can~~) limit the measure of damages for
33 (~~such~~) the lack or failure(~~but~~). However, the parties may
34 determine by agreement (~~determine~~) the standards by which (~~such~~)

1 the bank's responsibility is to be measured if ~~((such))~~ those standards
2 are not manifestly unreasonable.

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

7 (3) Action or non-action approved by this Article or pursuant to
8 Federal Reserve regulations or operating ~~((letters—constitutes))~~
9 circulars is the exercise of ordinary care and, in the absence of
10 special instructions, action or non-action consistent with clearing-
11 house rules and the like or with a general banking usage not
12 disapproved by this Article, is prima facie ~~((constitutes))~~ the
13 exercise of ordinary care.

14 (4) The specification or approval of certain procedures by this
15 Article ~~((does))~~ is not ~~((constitute))~~ disapproval of other procedures
16 ~~((which))~~ that may be reasonable under the circumstances.

17 (5) The measure of damages for failure to exercise ordinary care in
18 handling an item is the amount of the item reduced by an amount
19 ~~((which))~~ that could not have been realized by the ~~((use))~~ exercise of
20 ordinary care~~((, and where))~~. If there is also bad faith it includes
21 any other damages~~((, if any, suffered by))~~ the party suffered as a
22 proximate consequence.

23 **Sec. 74.** RCW 62A.4-104 and 1981 c 122 s 1 are each amended to read
24 as follows:

25 DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this Article, unless
26 the context otherwise requires:

27 (a) "Account" means any deposit or credit account with a bank ~~((and~~
28 includes)), including a ~~((checking))~~ demand, time, ~~((interest—or))~~
29 savings, passbook, share draft, or like account, other than an account
30 evidenced by a certificate of deposit;

31 (b) "Afternoon" means the period of a day between noon and
32 midnight;

33 (c) "Banking day" means ~~((that))~~ the part of ~~((any))~~ a day on which
34 a bank is open to the public for carrying on substantially all of its
35 banking functions, except that it shall not include a Saturday, Sunday,
36 or legal holiday;

37 (d) "Clearing house" means ~~((any))~~ an association of banks or other
38 payors regularly clearing items;

1 (e) "Customer" means ~~((any))~~ a person having an account with a bank
2 or for whom a bank has agreed to collect items ~~((and includes)),~~
3 including a bank ~~((carrying))~~ that maintains an account ~~((with))~~ at
4 another bank;

5 (f) "Documentary draft" means ~~((any negotiable or non negotiable~~
6 ~~draft with accompanying documents, securities or other papers to be~~
7 ~~delivered against honor of the draft))~~ a draft to be presented for
8 acceptance or payment if specified documents, certificated securities
9 (RCW 62A.8-102) or instructions for uncertificated securities (RCW
10 62A.8-308), or other certificates, statements, or the like are to be
11 received by the drawee or other payor before acceptance or payment of
12 the draft;

13 (g) "Draft" means a draft as defined in RCW 62A.3-104 or an item,
14 other than an instrument, that is an order;

15 (h) "Drawee" means a person ordered in a draft to make payment;

16 ~~((g))~~ (i) "Item" means ~~((any))~~ an instrument ~~((for the))~~ or a
17 promise or order to pay money handled by a bank for collection or
18 payment ~~((of money even though it is not negotiable but does not~~
19 ~~include money)).~~ The term does not include a payment order governed by
20 Article 4A or a credit or debit card slip;

21 ~~((h))~~ (j) "Midnight deadline" with respect to a bank is midnight
22 on its next banking day following the banking day on which it receives
23 the relevant item or notice or from which the time for taking action
24 commences to run, whichever is later;

25 ~~((i))~~ "Properly payable" ~~includes the availability of funds for~~
26 ~~payment at the time of decision to pay or dishonor;~~

27 ~~((j))~~ (k) "Settle" means to pay in cash, by clearing-house
28 settlement, in a charge or credit or by remittance, or otherwise as
29 ~~((instructed))~~ agreed. A settlement may be either provisional or
30 final;

31 ~~((k))~~ (l) "Suspends payments" with respect to a bank means that
32 it has been closed by order of the supervisory authorities, that a
33 public officer has been appointed to take it over or that it ceases or
34 refuses to make payments in the ordinary course of business.

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

37 "Agreement for electronic presentment" section 80 of this act.

38 "Bank" RCW 62A.4-105.

39 "Collecting bank" RCW 62A.4-105.

1 "Depository bank" RCW 62A.4-105.
2 "Intermediary bank" RCW 62A.4-105.
3 "Payor bank" RCW 62A.4-105.
4 "Presenting bank" RCW 62A.4-105.
5 (~~("Remitting bank" RCW 62A.4-105.)~~)

6 "Presentment notice" section 80 of this act.

7 (3) The following definitions in other Articles apply to this
8 Article:

9 "Acceptance" RCW (~~(62A.3-410)~~) 62A.3-409.

10 "Alteration" RCW 62A.3-407.

11 "Cashier's check" RCW 62A.3-104.

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

13 (~~("Certification" RCW 62A.3-411.)~~)

14 "Certified check" RCW 62A.3-409.

15 "Check" RCW 62A.3-104.

16 "Draft" RCW 62A.3-104.

17 "Good faith" RCW 62A.3-103.

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

19 "Instrument" RCW 62A.3-104.

20 "Notice of dishonor" RCW (~~(62A.3-508)~~) 62A.3-503.

21 "Order" RCW 62A.3-103.

22 "Ordinary care" RCW 62A.3-103.

23 "Person entitled to enforce" RCW 62A.3-301.

24 "Presentment" RCW (~~(62A.3-504)~~) 62A.3-501.

25 "Promise" RCW 62A.3-103.

26 (~~("Protest" RCW 62A.3-509.)~~)

27 "Prove" RCW 62A.3-103.

28 (~~("Secondary party" RCW 62A.3-102.)~~)

29 "Teller's check" RCW 62A.3-104.

30 "Unauthorized signature" RCW 62A.3-403.

31 (4) In addition Article 1 contains general definitions and
32 principles of construction and interpretation applicable throughout
33 this Article.

34 **Sec. 75.** RCW 62A.4-105 and 1965 ex.s. c 157 s 4-105 are each
35 amended to read as follows:

36 "BANK"; "DEPOSITARY BANK"; "PAYOR BANK"; "INTERMEDIARY BANK";
37 "COLLECTING BANK"; (~~("PAYOR BANK";)~~) "PRESENTING BANK"(~~(;"REMITTING~~
38 BANK"))). In this Article (~~(unless the context otherwise requires)~~):

1 (a) "Bank" means a person engaged in the business of banking,
2 including a savings bank, savings and loan association, credit union,
3 or trust company;

4 (b) "Depository bank" means the first bank to ((which)) take an
5 item ((is transferred for collection)) even though it is also the payor
6 bank, unless the item is presented for immediate payment over the
7 counter;

8 ((b)) (c) "Payor bank" means a bank ((by which an item)) that is
9 ((payable as drawn or accepted)) the drawee of a draft;

10 ((e)) (d) "Intermediary bank" means ((any)) a bank to which an
11 item is transferred in course of collection except the depository or
12 payor bank;

13 ((d)) (e) "Collecting bank" means ((any)) a bank handling the
14 item for collection except the payor bank;

15 ((e)) (f) "Presenting bank" means ((any)) a bank presenting an
16 item except a payor bank((;

17 (f) ~~"Remitting bank" means any payor or intermediary bank remitting~~
18 ~~for an item)).~~

19 NEW SECTION. Sec. 76. A new section is added to Article 4 of
20 Title 62A RCW to read as follows:

21 PAYABLE THROUGH OR PAYABLE AT BANK; COLLECTING BANK. (1) If an
22 item states that it is "payable through" a bank identified in the item,
23 (a) the item designates the bank as a collecting bank and does not by
24 itself authorize the bank to pay the item, and (b) the item may be
25 presented for payment only by or through the bank.

26 **Alternative A**

27 (2) If an item states that it is "payable at" a bank identified in
28 the item, the item is equivalent to a draft drawn on the bank.

29 **Alternative B**

30 (2) If an item states that it is "payable at" a bank identified in
31 the item, (a) the item designates the bank as a collecting bank and
32 does not by itself authorize the bank to pay the item, and (b) the item
33 may be presented for payment only by or through the bank.

34 (3) If a draft names a nonbank drawee and it is unclear whether a
35 bank named in the draft is a codrawee or a collecting bank, the bank is
36 a collecting bank.

1 **Sec. 77.** RCW 62A.4-106 and 1965 ex.s. c 157 s 4-106 are each
2 amended to read as follows:

3 SEPARATE OFFICE OF A BANK. A branch or separate office of a bank
4 is a separate bank for the purpose of computing the time within which
5 and determining the place at or to which action may be taken or notices
6 or orders (~~shall~~) must be given under this Article and under Article
7 3.

8 **Sec. 78.** RCW 62A.4-107 and 1965 ex.s. c 157 s 4-107 are each
9 amended to read as follows:

10 TIME OF RECEIPT OF ITEMS. (1) For the purpose of allowing time to
11 process items, prove balances, and make the necessary entries on its
12 books to determine its position for the day, a bank may fix an
13 afternoon hour of two P.M. or later as a cut-off hour for the handling
14 of money and items and the making of entries on its books.

15 (2) (~~Any~~) A item or deposit of money received on any day after a
16 cut-off hour so fixed or after the close of the banking day may be
17 treated as being received at the opening of the next banking day.

18 **Sec. 79.** RCW 62A.4-108 and 1965 ex.s. c 157 s 4-108 are each
19 amended to read as follows:

20 DELAYS. (1) Unless otherwise instructed, a collecting bank in a
21 good faith effort to secure payment (~~may, in the case~~) of a specific
22 item(~~s~~) drawn on a payor other than a bank, and with or without the
23 approval of any person involved, may waive, modify, or extend time
24 limits imposed or permitted by this Title for a period not (~~in excess~~
25 ~~of an~~) exceeding two additional banking days without discharge of
26 (~~secondary parties and without~~) drawers or indorsers or liability to
27 its transferor or (~~any~~) a prior party.

28 (2) Delay by a collecting bank or payor bank beyond time limits
29 prescribed or permitted by this Title or by instructions is excused if
30 (a) the delay is caused by interruption of communication or computer
31 facilities, suspension of payments by another bank, war, emergency
32 conditions, failure of equipment, or other circumstances beyond the
33 control of the bank (~~provided it~~), and (b) the bank exercises such
34 diligence as the circumstances require.

35 NEW SECTION. **Sec. 80.** A new section is added to Article 4 of
36 Title 62A RCW to read as follows:

1 ELECTRONIC PRESENTMENT. (1) "Agreement for electronic presentment"
2 means an agreement, clearing-house rule, or Federal Reserve regulation
3 or operating circular, providing that presentment of an item may be
4 made by transmission of an image of an item or information describing
5 the item ("presentment notice") rather than delivery of the item
6 itself. The agreement may provide for procedures governing retention,
7 presentment, payment, dishonor, and other matters concerning items
8 subject to the agreement.

9 (2) Presentment of an item pursuant to an agreement for presentment
10 is made when the presentment notice is received.

11 (3) If presentment is made by presentment notice, a reference to
12 "item" or "check" in this Article means the presentment notice unless
13 the context otherwise indicates.

14 NEW SECTION. **Sec. 81.** A new section is added to Article 4 of
15 Title 62A RCW to read as follows:

16 STATUTE OF LIMITATIONS. An action to enforce an obligation, duty,
17 or right arising under this Article must be commenced within three
18 years after the cause of action accrues.

19 PART 2

20 COLLECTION OF ITEMS:

21 DEPOSITORY AND COLLECTING BANKS

22 **Sec. 82.** RCW 62A.4-201 and 1965 ex.s. c 157 s 4-201 are each
23 amended to read as follows:

24 (~~(PRESUMPTION AND DURATION OF AGENCY)~~) STATUS OF COLLECTING
25 BANK(S) AS AGENT AND PROVISIONAL STATUS OF CREDITS; APPLICABILITY OF
26 ARTICLE; ITEM INDORSED "PAY ANY BANK". (1) Unless a contrary intent
27 clearly appears and (~~(prior to)~~) before the time that a settlement
28 given by a collecting bank for an item is or becomes final
29 (~~((subsection (3) of RCW 62A.4-211 and RCW 62A.4-212 and RCW 62A.4-~~
30 ~~213))~~), the bank, with respect to the item, is an agent or sub-agent of
31 the owner of the item and any settlement given for the item is
32 provisional. This provision applies regardless of the form of
33 indorsement or lack of indorsement and even though credit given for the
34 item is subject to immediate withdrawal as of right or is in fact
35 withdrawn; but the continuance of ownership of an item by its owner and
36 any rights of the owner to proceeds of the item are subject to rights

1 of a collecting bank such as those resulting from outstanding advances
2 on the item and ~~((valid))~~ rights of recoupment or setoff. ~~((When))~~ If
3 an item is handled by banks for purposes of presentment, payment
4 ~~((and))~~, collection, or return, the relevant provisions of this Article
5 apply even though action of the parties clearly establishes that a
6 particular bank has purchased the item and is the owner of it.

7 (2) After an item has been indorsed with the words "pay any bank"
8 or the like, only a bank may acquire the rights of a holder until the
9 item has been:

10 (a) ~~((until the item has been))~~ Returned to the customer initiating
11 collection; or

12 (b) ~~((until the item has been))~~ Specially indorsed by a bank to a
13 person who is not a bank.

14 **Sec. 83.** RCW 62A.4-202 and 1965 ex.s. c 157 s 4-202 are each
15 amended to read as follows:

16 RESPONSIBILITY FOR COLLECTION OR RETURN; WHEN ACTION ((SEASONABLE))
17 TIMELY. (1) A collecting bank must ~~((use))~~ exercise ordinary care 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 (d) ~~((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.

29 (2) ~~((A collecting bank taking proper action before its midnight~~
30 ~~deadline following receipt of an item, notice or payment acts~~
31 ~~seasonably; taking proper action within a reasonably longer time may be~~
32 ~~seasonable but the bank has the burden of so establishing.))~~ A
33 collecting bank exercises ordinary care under subsection (1) by taking
34 proper action before its midnight deadline following receipt of an
35 item, notice, or settlement. Taking proper action within a reasonably
36 longer time may constitute the exercise of ordinary care, but the bank
37 has the burden of establishing timeliness.

1 (3) Subject to subsection (1)(a), a bank is not liable for the
2 insolvency, neglect, misconduct, mistake or default of another bank or
3 person or for loss or destruction of an item in the possession of
4 others or in transit (~~or in the possession of others~~).

5 **Sec. 84.** RCW 62A.4-203 and 1965 ex.s. c 157 s 4-203 are each
6 amended to read as follows:

7 EFFECT OF INSTRUCTIONS. Subject to (~~the provisions of~~) Article
8 3 concerning conversion of instruments (~~(RCW 62A.3-419)~~) (RCW 62A.3-
9 420 (section 59 of this act)) and (~~the provisions of both Article 3~~
10 ~~and this Article concerning~~) restrictive indorsements (RCW 62A.3-206),
11 only a collecting bank's transferor can give instructions (~~which~~)
12 that affect the bank or constitute notice to it, and a collecting bank
13 is not liable to prior parties for any action taken pursuant to
14 (~~such~~) the instructions or in accordance with any agreement with its
15 transferor.

16 **Sec. 85.** RCW 62A.4-204 and 1965 ex.s. c 157 s 4-204 are each
17 amended to read as follows:

18 METHODS OF SENDING AND PRESENTING; SENDING (~~DIRECT~~) DIRECTLY TO
19 PAYOR BANK. (1) A collecting bank (~~must~~) shall send items by a
20 reasonably prompt method, taking into consideration (~~any~~) relevant
21 instructions, the nature of the item, the number of (~~such~~) those
22 items on hand, (~~and~~) the cost of collection involved, and the method
23 generally used by it or others to present (~~such~~) those items.

24 (2) A collecting bank may send:

25 (a) (~~any~~) An item (~~direct~~) directly to the payor bank;

26 (b) (~~any~~) An item to (~~any~~) a non-bank payor if authorized by
27 its transferor; and

28 (c) (~~any~~) An item other than documentary drafts to (~~any~~) a non-
29 bank payor, if authorized by Federal Reserve regulation or operating
30 (~~letter~~) circular, clearing-house rule, or the like.

31 (3) Presentment may be made by a presenting bank or other payor at
32 a place where the payor bank has requested that presentment be made.

33 **Sec. 86.** RCW 62A.4-205 and 1965 ex.s. c 157 s 4-205 are each
34 amended to read as follows:

1 ((SUPPLYING MISSING INDORSEMENT; NO NOTICE FROM PRIOR
2 INDORSEMENT.)) DEPOSITARY BANK HOLDER OF UNINDORSED ITEM. If a
3 customer delivers an item to a depositary bank for collection:

4 (1) ((A depositary bank which has taken an item for collection may
5 supply any indorsement of the customer which is necessary to title
6 unless the item contains the words "payee's indorsement required" or
7 the like. In the absence of such a requirement a statement placed on
8 the item by the depositary bank to the effect that the item was
9 deposited by a customer or credited to his account is effective as the
10 customer's indorsement.

11 (2) An intermediary bank, or payor bank which is not a depositary
12 bank, is neither given notice nor otherwise affected by a restrictive
13 indorsement of any person except the bank's immediate transferor.)) The
14 depositary bank becomes a holder of the item at the time it receives
15 the item for collection if the customer at the time of delivery was a
16 holder of the item, whether or not the customer indorses the item, and,
17 if the bank satisfies the other requirements of RCW 62A.3-302, it is a
18 holder in due course; and

19 (2) The depositary bank warrants to collecting banks, the payor
20 bank or other payor, and the drawer that the amount of the item was
21 paid to the customer or deposited to the customer's account.

22 **Sec. 87.** RCW 62A.4-206 and 1965 ex.s. c 157 s 4-206 are each
23 amended to read as follows:

24 TRANSFER BETWEEN BANKS. Any agreed method ((which)) that
25 identifies the transferor bank is sufficient for the item's further
26 transfer to another bank.

27 **Sec. 88.** RCW 62A.4-207 and 1965 ex.s. c 157 s 4-207 are each
28 amended to read as follows:

29 TRANSFER WARRANTIES ((OF CUSTOMER AND COLLECTING BANK ON TRANSFER
30 OR PRESENTMENT OF ITEMS; TIME FOR CLAIMS)). (1) ((Each customer or
31 collecting bank who obtains payment or acceptance of an item and each
32 prior customer and collecting bank warrants to the payor bank or other
33 payor who in good faith pays or accepts the item that

34 (a) he has a good title to the item or is authorized to obtain
35 payment or acceptance on behalf of one who has a good title; and

36 (b) he has no knowledge that the signature of the maker or drawer
37 is unauthorized, except that this warranty is not given by any customer

1 ~~or collecting bank that is a holder in due course and acts in good~~
2 ~~faith~~

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

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

6 ~~(iii) to an acceptor of an item if the holder in due course took~~
7 ~~the item after the acceptance or obtained the acceptance without~~
8 ~~knowledge that the drawer's signature was unauthorized; and~~

9 ~~(c) the item has not been materially altered, except that this~~
10 ~~warranty is not given by any customer or collecting bank that is a~~
11 ~~holder in due course and acts in good faith~~

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

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

15 ~~(iii) to the acceptor of an item with respect to an alteration made~~
16 ~~prior to the acceptance if the holder in due course took the item after~~
17 ~~the acceptance, even though the acceptance provided "payable as~~
18 ~~originally drawn" or equivalent terms; or~~

19 ~~(iv) to the acceptor of an item with respect to an alteration made~~
20 ~~after the acceptance.~~

21 ~~(2) Each customer and collecting bank who transfers an item and~~
22 ~~receives a settlement or other consideration for it warrants to his~~
23 ~~transferee and to any subsequent collecting bank who takes the item in~~
24 ~~good faith that~~

25 ~~(a) he has a good title to the item or is authorized to obtain~~
26 ~~payment or acceptance on behalf of one who has a good title and the~~
27 ~~transfer is otherwise rightful; and~~

28 ~~(b) all signatures are genuine or authorized; and~~

29 ~~(c) the item has not been materially altered; and~~

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

31 ~~(e) he has no knowledge of any insolvency proceeding instituted~~
32 ~~with respect to the maker or acceptor or the drawer of an unaccepted~~
33 ~~item.~~

34 ~~In addition each customer and collecting bank so transferring an item~~
35 ~~and receiving a settlement or other consideration engages that upon~~
36 ~~dishonor and any necessary notice of dishonor and protest he will take~~
37 ~~up the item.~~

38 ~~(3) The warranties and the engagement to honor set forth in the two~~
39 ~~preceding subsections arise notwithstanding the absence of indorsement~~

1 or words of guaranty or warranty in the transfer or presentment and a
2 collecting bank remains liable for their breach despite remittance to
3 its transferor. Damages for breach of such warranties or engagement to
4 honor shall not exceed the consideration received by the customer or
5 collecting bank responsible plus finance charges and expenses related
6 to the item, if any.

7 (4) ~~Unless a claim for breach of warranty under this section is~~
8 ~~made within a reasonable time after the person claiming learns of the~~
9 ~~breach, the person liable is discharged to the extent of any loss~~
10 ~~caused by the delay in making claim.))~~ A customer or collecting bank
11 that transfers an item and receives a settlement or other consideration
12 warrants to the transferee and to any subsequent collecting bank that:

13 (a) The warrantor is a person entitled to enforce the item;

14 (b) All signatures on the item are authentic and authorized;

15 (c) The item has not been altered;

16 (d) The item is not subject to a defense or claim in recoupment
17 (RCW 62A.3-305(1)) of any party that can be asserted against the
18 warrantor; and

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

22 (2) If an item is dishonored, a customer or collecting bank
23 transferring the item and receiving settlement or other consideration
24 is obliged to pay the amount due on the item (a) according to the terms
25 of the item at the time it was transferred, or (b) if the transfer was
26 of an incomplete item, according to its terms when completed as stated
27 in RCW 62A.3-115 and 62A.3-407. The obligation of a transferor is owed
28 to the transferee and to any subsequent collecting bank that takes the
29 item in good faith. A transferor cannot disclaim its obligation under
30 this subsection by an indorsement stating that it is made "without
31 recourse" or otherwise disclaiming liability.

32 (3) A person to whom the warranties under subsection (1) are made
33 and who took the item in good faith may recover from the warrantor as
34 damages for breach of warranty an amount equal to the loss suffered as
35 a result of the breach, but not more than the amount of the item plus
36 expenses and loss of interest incurred as a result of the breach.

37 (4) The warranties stated in subsection (1) cannot be disclaimed
38 with respect to checks. Unless notice of a claim for breach of
39 warranty is given to the warrantor within thirty days after the

1 claimant has reason to know of the breach and the identity of the
2 warrantor, the warrantor is discharged to the extent of any loss caused
3 by the delay in giving notice of the claim.

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

6 NEW SECTION. Sec. 89. A new section is added to Article 4 of
7 Title 62A RCW to read as follows:

8 PRESENTMENT WARRANTIES. (1) If an unaccepted draft is presented to
9 the drawee for payment or acceptance and the drawee pays or accepts the
10 draft, (a) the person obtaining payment or acceptance, at the time of
11 presentment, and (b) a previous transferor of the draft, at the time of
12 transfer, warrant to the drawee that pays or accepts the draft in good
13 faith that:

14 (i) The warrantor is, or was, at the time the warrantor transferred
15 the draft, a person entitled to enforce the draft or authorized to
16 obtain payment or acceptance of the draft on behalf of a person
17 entitled to enforce the draft;

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

19 (iii) The warrantor has no knowledge that the signature of the
20 purported drawer of the draft is unauthorized.

21 (2) A drawee making payment may recover from a warrantor damages
22 for breach of warranty equal to the amount paid by the drawee less the
23 amount the drawee received or is entitled to receive from the drawer
24 because of the payment. In addition, the drawee is entitled to
25 compensation for expenses and loss of interest resulting from the
26 breach. The right of the drawee to recover damages under this
27 subsection is not affected by any failure of the drawee to exercise
28 ordinary care in making payment. If the drawee accepts the draft (a)
29 breach of warranty is a defense to the obligation of the acceptor, and
30 (b) if the acceptor makes payment with respect to the draft, the
31 acceptor is entitled to recover from a warrantor for breach of warranty
32 the amounts stated in this subsection.

33 (3) If a drawee asserts a claim for breach of warranty under
34 subsection (1) based on an unauthorized indorsement of the draft or an
35 alteration of the draft, the warrantor may defend by proving that the
36 indorsement is effective under RCW 62A.3-404 or 62A.3-405 or the drawer
37 is precluded under RCW 62A.3-406 or 62A.4-406 from asserting against
38 the drawee the unauthorized indorsement or alteration.

1 (4) If (a) a dishonored draft is presented for payment to the
2 drawer or an indorser or (b) any other item is presented for payment to
3 a party obliged to pay the item, and the item is paid, the person
4 obtaining payment and a prior transferor of the item warrant to the
5 person making payment in good faith that the warrantor is, or was, at
6 the time the warrantor transferred the item, a person entitled to
7 enforce the item or authorized to obtain payment on behalf of a person
8 entitled to enforce the item. The person making payment may recover
9 from any warrantor for breach of warranty an amount equal to the amount
10 paid plus expenses and loss of interest resulting from the breach.

11 (5) The warranties stated in subsections (1) and (2) cannot be
12 disclaimed with respect to checks. Unless notice of a claim for breach
13 of 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 (6) 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. 90.** A new section is added to Article 4 of
20 Title 62A RCW to read as follows:

21 **ENCODING AND RETENTION WARRANTIES.** (1) A person who encodes
22 information on or with respect to an item after issue warrants to any
23 subsequent collecting bank and to the payor bank or other payor that
24 the information is correctly encoded. If the customer of a depository
25 bank encodes, that bank also makes the warranty.

26 (2) A person who undertakes to retain an item pursuant to an
27 agreement for electronic presentment warrants to any subsequent
28 collecting bank and to the payor bank or other payor that retention and
29 presentment of the item comply with the agreement. If a customer of a
30 depository bank undertakes to retain an item, that bank also makes this
31 warranty.

32 (3) A person to whom warranties are made under this section and who
33 took the item in good faith may recover from the warrantor as damages
34 for breach of warranty an amount equal to the loss suffered as a result
35 of the breach, plus expenses and loss of interest incurred as a result
36 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.

30 **Sec. 92.** RCW 62A.4-209 and 1965 ex.s. c 157 s 4-209 are each
31 amended to read as follows:

32 WHEN BANK GIVES VALUE FOR PURPOSES OF HOLDER IN DUE COURSE. For
33 purposes of determining its status as a holder in due course, (~~((the))~~)
34 bank has given value to the extent (~~((that))~~) it has a security interest
35 in an item (~~((provided that))~~), if the bank otherwise complies with the
36 requirements of RCW 62A.3-302 on what constitutes a holder in due
37 course.

1 **Sec. 93.** RCW 62A.4-210 and 1965 ex.s. c 157 s 4-210 are each
2 amended to read as follows:

3 PRESENTMENT BY NOTICE OF ITEM NOT PAYABLE BY, THROUGH, OR AT A
4 BANK; LIABILITY OF ((SECONDARY PARTIES)) DRAWER OR INDORSER. (1)
5 Unless otherwise instructed, a collecting bank may present an item not
6 payable by, through or at a bank by sending to the party to accept or
7 pay a written notice that the bank holds the item for acceptance or
8 payment. The notice must be sent in time to be received on or before
9 the day when presentment is due and the bank must meet any requirement
10 of the party to accept or pay under RCW ((62A.3-505)) 62A.3-501 by the
11 close of the bank's next banking day after it knows of the requirement.

12 (2) ((Where)) If presentment is made by notice and ((neither honor
13 nor)) payment, acceptance, or request for compliance with a requirement
14 under RCW ((62A.3-505)) 62A.3-501 is not received by the close of
15 business on the day after maturity or, in the case of demand items, by
16 the close of business on the third banking day after notice was sent,
17 the presenting bank may treat the item as dishonored and charge any
18 ((secondary party)) drawer or indorser by sending ((him)) it notice of
19 the facts.

20 **Sec. 94.** RCW 62A.4-211 and 1965 ex.s. c 157 s 4-211 are each
21 amended to read as follows:

22 ((MEDIA OF REMITTANCE; PROVISIONAL)) MEDIUM AND ((FINAL)) TIME OF
23 SETTLEMENT ((IN REMITTANCE CASES)) BY BANK. (1) ((A collecting bank
24 may take in settlement of an item

25 (a) a check of the remitting bank or of another bank on any bank
26 except the remitting bank; or

27 (b) a cashier's check or similar primary obligation of a remitting
28 bank which is a member of or clears through a member of the same
29 clearing house or group as the collecting bank; or

30 (c) appropriate authority to charge an account of the remitting
31 bank or of another bank with the collecting bank; or

32 (d) if the item is drawn upon or payable by a person other than a
33 bank, a cashier's check, certified check or other bank check or
34 obligation.

35 (2) ~~If before its midnight deadline the collecting bank properly~~
36 ~~dishonors a remittance check or authorization to charge on itself or~~
37 ~~presents or forwards for collection a remittance instrument of or on~~
38 ~~another bank which is of a kind approved by subsection (1) or has not~~

1 ~~been authorized by it, the collecting bank is not liable to prior~~
2 ~~parties in the event of the dishonor of such check, instrument or~~
3 ~~authorization.~~

4 ~~(3) A settlement for an item by means of a remittance instrument or~~
5 ~~authorization to charge is or becomes a final settlement as to both the~~
6 ~~person making and the person receiving the settlement~~

7 ~~(a) if the remittance instrument or authorization to charge is of~~
8 ~~a kind approved by subsection (1) or has not been authorized by the~~
9 ~~person receiving the settlement and in either case the person receiving~~
10 ~~the settlement acts seasonably before its midnight deadline in~~
11 ~~presenting, forwarding for collection or paying the instrument or~~
12 ~~authorization, at the time the remittance instrument or authorization~~
13 ~~is finally paid by the payor by which it is payable;~~

14 ~~(b) if the person receiving the settlement has authorized~~
15 ~~remittance by a non bank check or obligation or by a cashier's check or~~
16 ~~similar primary obligation of or a check upon the payor or other~~
17 ~~remitting bank which is not of a kind approved by subsection (1)(b),~~
18 ~~at the time of the receipt of such remittance check or obligation; or~~

19 ~~(c) if in a case not covered by sub-paragraphs (a) or (b) the~~
20 ~~person receiving the settlement fails to seasonably present, forward~~
21 ~~for collection, pay or return a remittance instrument or authorization~~
22 ~~to it to charge before its midnight deadline, at such midnight~~
23 ~~deadline.)) With respect to settlement by a bank, the medium and time~~
24 ~~of settlement may be prescribed by Federal Reserve regulations or~~
25 ~~circulars, clearing-house rules, and the like, or agreement. In the~~
26 ~~absence of such prescription:~~

27 ~~(a) The medium of settlement is cash or credit to an account in a~~
28 ~~Federal Reserve bank of or specified by the person to receive~~
29 ~~settlement; and~~

30 ~~(b) The time of settlement, is:~~

31 ~~(i) With respect to tender of settlement by cash, a cashier's~~
32 ~~check, or teller's check, when the cash or check is sent or delivered;~~

33 ~~(ii) With respect to tender of settlement by credit in an account~~
34 ~~in a Federal Reserve bank, when the credit is made;~~

35 ~~(iii) With respect to tender of settlement by a credit or debit to~~
36 ~~an account in a bank, when the credit or debit is made or, in the case~~
37 ~~of tender of settlement by authority to charge an account, when the~~
38 ~~authority is sent or delivered; or~~

1 (iv) With respect to tender of settlement by a funds transfer, when
2 payment is made pursuant to RCW 62A.4A.406(1) to the person receiving
3 settlement.

4 (2) If the tender of settlement is not by a medium authorized by
5 subsection (1) or the time of settlement is not fixed by subsection
6 (1), no settlement occurs until the tender of settlement is accepted by
7 the person receiving settlement.

8 (3) If settlement for an item is made by cashier's check or
9 teller's check and the person receiving settlement, before its midnight
10 deadline:

11 (a) Presents or forwards the check for collection, settlement is
12 final when the check is finally paid; or

13 (b) Fails to present or forward the check for collection,
14 settlement is final at the midnight deadline of the person receiving
15 settlement.

16 (4) If settlement for an item is made by giving authority to charge
17 the account of the bank giving settlement in the bank receiving
18 settlement, settlement is final when the charge is made by the bank
19 receiving settlement if there are funds available in the account for
20 the amount of the item.

21 **Sec. 95.** RCW 62A.4-212 and 1965 ex.s. c 157 s 4-212 are each
22 amended to read as follows:

23 RIGHT OF CHARGE-BACK OR REFUND; LIABILITY OF COLLECTING BANK;
24 RETURN OF ITEM. (1) If a collecting bank has made provisional
25 settlement with its customer for an item and ((itself)) fails by reason
26 of dishonor, suspension of payments by a bank, or otherwise to receive
27 a settlement for the item which is or becomes final, the bank may
28 revoke the settlement given by it, charge back the amount of any credit
29 given for the item to its customer's account, or obtain refund from its
30 customer, whether or not it is able to return the items, if by its
31 midnight deadline or within a longer reasonable time after it learns
32 the facts it returns the item or sends notification of the facts. If
33 the return or notice is delayed beyond the bank's midnight deadline or
34 a longer reasonable time after it learns the facts, the bank may revoke
35 the settlement, charge back the credit, or obtain refund from its
36 customer, but it is liable for any loss resulting from the delay.
37 These rights to revoke, charge-back, and obtain refund terminate if and
38 when a settlement for the item received by the bank is or becomes final

1 (~~(subsection (3) of RCW 62A.4-211 and subsections (2) and (3) of RCW~~
2 ~~62A.4-213)~~)).

3 (2) (~~(Within the time and manner prescribed by this section and RCW~~
4 ~~62A.4-301, an intermediary or payor bank, as the case may be, may~~
5 ~~return an unpaid item directly to the depositary bank and may send for~~
6 ~~collection a draft on the depositary bank and obtain reimbursement. In~~
7 ~~such case, if the depositary bank has received provisional settlement~~
8 ~~for the item, it must reimburse the bank drawing the draft and any~~
9 ~~provisional credits for the item between banks shall become and remain~~
10 ~~final.)) A collecting bank returns an item when it is sent or delivered
11 to the bank's customer or transferor or pursuant to its instructions.~~

12 (3) A depositary bank (~~(which))~~ that is also the payor may charge-
13 back the amount of an item to its customer's account or obtain refund
14 in accordance with the section governing return of an item received by
15 a payor bank for credit on its books (RCW 62A.4-301).

16 (4) The right to charge-back is not affected by:

17 (a) (~~(prior))~~ Previous use of (~~(the))~~ a credit given for the item;
18 or

19 (b) Failure by any bank to exercise ordinary care with respect to
20 the item, ~~but~~ (~~(any))~~ a bank so failing remains liable.

21 (5) A failure to charge-back or claim refund does not affect other
22 rights of the bank against the customer or any other party.

23 (6) If credit is given in dollars as the equivalent of the value of
24 an item payable in a foreign (~~(currency))~~ money, the dollar amount of
25 any charge-back or refund (~~(shall))~~ must be calculated on the basis of
26 the (~~(buying sight))~~ bank-offered spot rate for the foreign
27 (~~(currency))~~ money prevailing on the day when the person entitled to
28 the charge-back or refund learns that it will not receive payment in
29 ordinary course.

30 **Sec. 96.** RCW 62A.4-213 and 1965 ex.s. c 157 s 4-213 are each
31 amended to read as follows:

32 FINAL PAYMENT OF ITEM BY PAYOR BANK; WHEN PROVISIONAL DEBITS AND
33 CREDITS BECOME FINAL; WHEN CERTAIN CREDITS BECOME AVAILABLE FOR
34 WITHDRAWAL. (1) An item is finally paid by a payor bank when the bank
35 has first done any of the following(~~(, whichever happens first))~~):

36 (a) Paid the item in cash; (~~(or))~~

1 (b) Settled for the item without ((reserving)) having a right to
2 revoke the settlement ((and without having such right)) under statute,
3 clearing-house rule, or agreement; or

4 (c) ~~((completed the process of posting the item to the indicated~~
5 ~~account of the drawer, maker or other person to be charged therewith;~~
6 ~~or~~

7 ~~((d))~~ Made a provisional settlement for the item and failed to
8 revoke the settlement in the time and manner permitted by statute,
9 clearing-house rule, or agreement.

10 ~~((Upon a final payment under subparagraphs (b), (c) or (d) the payor~~
11 ~~bank shall be accountable for the amount of the item.))~~

12 (2) If provisional settlement for an item does not become final,
13 the item is not finally paid.

14 (3) If provisional settlement for an item between the presenting
15 and payor banks is made through a clearing house or by debits or
16 credits in an account between them, then to the extent that provisional
17 debits or credits for the item are entered in accounts between the
18 presenting and payor banks or between the presenting and successive
19 prior collecting banks seriatim, they become final upon final payment
20 of the item by the payor bank.

21 ~~((3))~~ (4) If a collecting bank receives a settlement for an item
22 which is or becomes final ((subsection (3) of RCW 62A.4-211,
23 subsection (2) of RCW 62A.4-213)), the bank is accountable to its
24 customer for the amount of the item and any provisional credit given
25 for the item in an account with its customer becomes final.

26 ~~((4))~~ (5) Subject to (a) applicable law stating a time for
27 availability of funds and (b) any right of the bank to apply the credit
28 to an obligation of the customer, credit given by a bank for an item in
29 ~~((an account with its customer))~~ a customer's account becomes available
30 for withdrawal as of right:

31 ~~((a) in any case where)~~ (i) If the bank has received a
32 provisional settlement for the item, ((--))when ((such)) the settlement
33 becomes final and the bank has had a reasonable time to ((learn that
34 the settlement is final)) receive return of the item and the item has
35 not been received within that time;

36 ~~((b) in any case where)~~ (ii) If the bank is both ((a)) the
37 depository bank and ((a)) the payor bank, and the item is finally
38 paid,--at the opening of the bank's second banking day following
39 receipt of the item.

1 settlement)) If a payor bank settles for a demand item (other than a
2 documentary draft) (~~received by a payor bank~~) presented otherwise
3 than for immediate payment over the counter (~~has been made~~) before
4 midnight of the banking day of receipt, the payor bank may revoke the
5 settlement and recover (~~any payment~~) the settlement if, before it has
6 made final payment (~~(subsection (1) of RCW 62A.4-213)~~) and before its
7 midnight deadline, it:

8 (a) Returns the item; or

9 (b) Sends written notice of dishonor or nonpayment if the item is
10 (~~held for protest or is otherwise~~) unavailable for return.

11 (2) If a demand item is received by a payor bank for credit on its
12 books, it may return (~~such~~) the item or send notice of dishonor and
13 may revoke any credit given or recover the amount thereof withdrawn by
14 its customer, if it acts within the time limit and in the manner
15 specified in (~~the preceding~~) subsection (1).

16 (3) Unless previous notice of dishonor has been sent, an item is
17 dishonored at the time when for purposes of dishonor it is returned or
18 notice sent in accordance with this section.

19 (4) An item is returned:

20 (a) As to an item (~~received~~) presented through a clearing house,
21 when it is delivered to the presenting or last collecting bank or to
22 the clearing house or is sent or delivered in accordance with (~~its~~)
23 clearing-house rules; or

24 (b) In all other cases, when it is sent or delivered to the bank's
25 customer or transferor or pursuant to (~~his~~) instructions.

26 **Sec. 99.** RCW 62A.4-302 and 1965 ex.s. c 157 s 4-302 are each
27 amended to read as follows:

28 PAYOR BANK'S RESPONSIBILITY FOR LATE RETURN OF ITEM. (~~In the~~
29 ~~absence of a valid defense such as breach of a presentment warranty~~
30 ~~(subsection (1) of RCW 62A.4-207), settlement effected or the like,)~~

31 (1) If an item is presented (~~on~~) to and received by a payor bank, the
32 bank is accountable for the amount of:

33 (a) A demand item, other than a documentary draft, whether properly
34 payable or not, if the bank, in any case (~~where~~) in which it is not
35 also the depositary bank, retains the item beyond midnight of the
36 banking day of receipt without settling for it or, (~~regardless of~~)
37 whether or not it is also the depositary bank, does not pay or return

1 the item or send notice of dishonor until after its midnight deadline;
2 or

3 (b) any other properly payable item unless, within the time allowed
4 for acceptance or payment of that item, the bank either accepts or pays
5 the item or returns it and accompanying documents.

6 (2) The liability of a payor bank to pay an item pursuant to
7 subsection (1) is subject to defenses based on breach of a presentment
8 warranty (RCW 62A.4-208) or proof that the person seeking enforcement
9 of the liability presented or transferred the item for the purpose of
10 defrauding the payor bank.

11 **Sec. 100.** RCW 62A.4-303 and 1965 ex.s. c 157 s 4-303 are each
12 amended to read as follows:

13 WHEN ITEMS SUBJECT TO NOTICE, (~~STOP-ORDER~~) STOP-PAYMENT ORDER,
14 LEGAL PROCESS, OR SETOFF; ORDER IN WHICH ITEMS MAY BE CHARGED OR
15 CERTIFIED. (1) Any knowledge, notice, or (~~stop-order~~) stop-payment
16 order received by, legal process served upon, or setoff exercised by a
17 payor bank(~~(, whether or not effective under other rules of law)~~) comes
18 too late to terminate, suspend, or modify the bank's right or duty to
19 pay an item or to charge its customer's account for the item(~~(, comes~~
20 ~~too late to so terminate, suspend or modify such right or duty)~~) if the
21 knowledge, notice, stop-payment order, or legal process is received or
22 served and a reasonable time for the bank to act thereon expires or the
23 setoff is exercised after the (~~bank has done any~~) earliest of the
24 following:

25 (a) (~~accepted or certified~~) The bank accepts or certifies the
26 item;

27 (b) (~~paid~~) The bank pays the item in cash;

28 (c) (~~settled~~) The bank settles for the item without (~~reserving~~)
29 having a right to revoke the settlement (~~and without having such~~
30 ~~right~~) under statute, clearing-house rule, or agreement;

31 (d) (~~completed the process of posting the item to the indicated~~
32 ~~account of the drawer, maker or other person to be charged therewith or~~
33 ~~otherwise has evidenced by examination of such indicated account and by~~
34 ~~action its decision to pay the item; or~~

35 (e)) The bank becomes accountable for the amount of the item under
36 (~~subsection (1)(d) of RCW 62A.4-213 and~~) RCW 62A.4-302 dealing with
37 the payor bank's responsibility for late return of items(~~(-)~~); or

1 (e) With respect to checks, a cutoff hour no earlier than one hour
2 after the opening of the next banking day after the banking day on
3 which the bank received the check and no later than the close of that
4 next banking day or, if no cutoff hour is fixed, the close of the next
5 banking day after the banking day on which the bank received the check.

6 (2) Subject to ~~((the provisions of))~~ subsection (1) items may be
7 accepted, paid, certified, or charged to the indicated account of its
8 customer in any order ~~((convenient to the bank))~~.

9 PART 4

10 RELATIONSHIP BETWEEN PAYOR BANK AND ITS CUSTOMER

11 **Sec. 101.** RCW 62A.4-401 and 1965 ex.s. c 157 s 4-401 are each
12 amended to read as follows:

13 WHEN BANK MAY CHARGE CUSTOMER'S ACCOUNT. (1) ~~((As against its~~
14 ~~customer,))~~ A bank may charge against ((his)) the account ((any)) of a
15 customer an item ((which)) that is ((otherwise)) properly payable from
16 that account even though the charge creates an overdraft. An item is
17 properly payable if it is authorized by the customer and is in
18 accordance with any agreement between the customer and bank.

19 (2) A customer is not liable for the amount of an overdraft if the
20 customer neither signed the item nor benefited from the proceeds of the
21 item.

22 (3) A bank may charge against the account of a customer a check
23 that is otherwise properly payable from the account, even though
24 payment was made before the date of the check, unless the customer has
25 given notice to the bank of the postdating describing the check with
26 reasonable certainty. The notice is effective for the period stated in
27 RCW 62A.4-403(2) for stop-payment orders, and must be received at such
28 time and in such manner as to afford the bank a reasonable opportunity
29 to act on it before the bank takes any action with respect to the check
30 described in RCW 62A.4-303. If a bank charges against the account of
31 a customer a check before the date stated in the notice of postdating,
32 the bank is liable for damages for the loss resulting from its act.
33 The loss may include damages for dishonor of subsequent items under RCW
34 62A.4-402.

35 (4) A bank ~~((which))~~ that in good faith makes payment to a holder
36 may charge the indicated account of its customer according to:

37 (a) The original ((tenor)) terms of ((his)) the altered item; or

1 (b) ~~The ((tenor))~~ terms of ~~((his))~~ the completed item, even though
2 the bank knows the item has been completed unless the bank has notice
3 that the completion was improper.

4 **Sec. 102.** RCW 62A.4-402 and 1965 ex.s. c 157 s 4-402 are each
5 amended to read as follows:

6 BANK'S LIABILITY TO CUSTOMER FOR WRONGFUL DISHONOR; TIME OF
7 DETERMINING INSUFFICIENCY OF ACCOUNT. (1) Except as otherwise provided
8 in this Article, a payor bank wrongfully dishonors an item if it
9 dishonors an item that is properly payable, but a bank may dishonor an
10 item that would create an overdraft unless it has agreed to pay the
11 overdraft.

12 (2) A payor bank is liable to its customer for damages proximately
13 caused by the wrongful dishonor of an item. ~~((When the dishonor occurs~~
14 through mistake)) Liability is limited to actual damages proved~~((—If~~
15 ~~so proximately caused))~~ and ~~((proved damages))~~ may include damages for
16 an arrest or prosecution of the customer or other consequential
17 damages. Whether any consequential damages are proximately caused by
18 the wrongful dishonor is a question of fact to be determined in each
19 case.

20 (3) A payor bank's determination of the customer's account balance
21 on which a decision to dishonor for insufficiency of available funds is
22 based may be made at any time between the time the item is received by
23 the payor bank and the time that the payor bank returns the item or
24 gives notice in lieu of return, and no more than one determination need
25 be made. If, at the election of the payor bank, a subsequent balance
26 determination is made for the purpose of reevaluating the bank's
27 decision to dishonor the item, the account balance at that time is
28 determinative of whether a dishonor for insufficiency of available
29 funds is wrongful.

30 **Sec. 103.** RCW 62A.4-403 and 1965 ex.s. c 157 s 4-403 are each
31 amended to read as follows:

32 CUSTOMER'S RIGHT TO STOP PAYMENT; BURDEN OF PROOF OF LOSS. (1) A
33 customer or any other person authorized to draw on the account if there
34 is more than one person may ~~((by order to his bank))~~ stop payment of
35 any item ~~((payable for his))~~ drawn on the customer's account ~~((but))~~ or
36 close the account by an order ~~((must be))~~ to the bank describing the
37 item or account with reasonable certainty received at ~~((such))~~ a time

1 and in ~~((such))~~ a manner ~~((as to))~~ that affords the bank a reasonable
2 opportunity to act on it ~~((prior to))~~ before any action by the bank
3 with respect to the item described in RCW 62A.4-303. If the signature
4 of more than one person is required to draw on an account, any of these
5 persons may stop payment or close the account.

6 (2) ~~((An oral order is binding upon the bank only for fourteen~~
7 ~~calendar days unless confirmed in writing within that period. A~~
8 ~~written order is effective for only six months unless renewed in~~
9 ~~writing))~~ A stop-payment order is effective for six months, but it
10 lapses after fourteen calendar days if the original order was oral and
11 was not confirmed in writing within that period. A stop-payment order
12 may be renewed for additional six-month periods by a writing given to
13 the bank within a period during which the stop-payment order is
14 effective.

15 (3) The burden of establishing the fact and amount of loss
16 resulting from the payment of an item contrary to a binding stop-
17 payment order or order to close the account is on the customer. The
18 loss from payment of an item contrary to a stop-payment order may
19 include damages for dishonor of subsequent items under RCW 62A.4-402.

20 **Sec. 104.** RCW 62A.4-405 and 1965 ex.s. c 157 s 4-405 are each
21 amended to read as follows:

22 DEATH OR INCOMPETENCE OF CUSTOMER. (1) A payor or collecting
23 bank's authority to accept, pay, or collect an item or to account for
24 proceeds of its collection, if otherwise effective, is not rendered
25 ineffective by incompetence of a customer of either bank existing at
26 the time the item is issued or its collection is undertaken if the bank
27 does not know of an adjudication of incompetence. Neither death nor
28 incompetence of a customer revokes ~~((such))~~ the authority to accept,
29 pay, collect, or account until the bank knows of the fact of death or
30 of an adjudication of incompetence and has reasonable opportunity to
31 act on it.

32 (2) Even with knowledge, a bank may for ten days after the date of
33 death pay or certify checks drawn on or ~~((prior to))~~ before that date
34 unless ordered to stop payment by a person claiming an interest in the
35 account.

36 **Sec. 105.** RCW 62A.4-406 and 1991 sp.s. c 19 s 1 are each amended
37 to read as follows:

1 ~~(1) ((When a bank sends to its customer a statement of account~~
2 ~~accompanied by items paid in good faith in support of the debit entries~~
3 ~~or holds the statement and items pursuant to a request or instructions~~
4 ~~of its customer or otherwise in a reasonable manner makes the statement~~
5 ~~and items available to the customer, the customer must exercise~~
6 ~~reasonable care and promptness to examine the statement and items to~~
7 ~~discover his or her unauthorized signature or any alteration on an item~~
8 ~~and must notify the bank promptly after discovery thereof.~~

9 ~~(2))~~ A bank that sends or makes available to a customer a
10 statement of account showing payment of items for the account shall
11 either return or make available to the customer the items paid or
12 provide information in the statement of account sufficient to allow the
13 customer reasonably to identify the items paid. The statement of
14 account provides sufficient information if the item is described by
15 item number, amount, and date of payment.

16 (2) If the items are not returned to the customer, the person
17 retaining the items shall either retain the items or, if the items are
18 destroyed, maintain the capacity to furnish legible copies of the items
19 until the expiration of seven years after receipt of the items. A
20 customer may request an item from the bank that paid the item, and that
21 bank must provide in a reasonable time either the item or, if the item
22 has been destroyed or is not otherwise obtainable, a legible copy of
23 the item.

24 (3) If a bank sends or makes available a statement of account or
25 items pursuant to subsection (1), the customer must exercise reasonable
26 promptness in examining the statement or the items to determine whether
27 any payment was not authorized because of an alteration of an item or
28 because a purported signature by or on behalf of the customer was not
29 authorized. If, based on the statement or items provided, the customer
30 should reasonably have discovered the unauthorized payment, the
31 customer must promptly notify the bank of the relevant facts.

32 (4) If the bank ((establishes)) proves that the customer failed
33 with respect to an item to comply with the duties imposed on the
34 customer by subsection ((+1)) (3) of this section the customer is
35 precluded from asserting against the bank:

36 (a) ((His or her)) The customer's unauthorized signature or any
37 alteration on the item, if the bank also ((establishes)) proves that it
38 suffered a loss by reason of ((such)) the failure; and

1 (b) ~~((An))~~ The customer's unauthorized signature or alteration by
2 the same wrong-doer on any other item paid in good faith by the bank
3 ~~((after the first item and statement was available to the customer for~~
4 ~~a reasonable period and before the bank receives notification from the~~
5 ~~customer of any such unauthorized signature or alteration))~~ if the
6 payment was made before the bank received notice from the customer of
7 the unauthorized signature or alteration and after the customer had
8 been afforded a reasonable period of time, not exceeding thirty days,
9 in which to examine the item or statement of account and notify the
10 bank.

11 ~~((3) The preclusion under subsection (2) of this section does not~~
12 ~~apply if the customer establishes lack of ordinary care on the part of~~
13 ~~the bank in paying the item(s).~~

14 ~~(4))~~ (5) If subsection (4) applies and the customer proves that
15 the bank failed to exercise ordinary care in paying the item and that
16 the failure substantially contributed to loss, the loss is allocated
17 between the customer precluded and the bank asserting the preclusion
18 according to the extent to which the failure of the customer to comply
19 with subsection (3) and the failure of the bank to exercise ordinary
20 care contributed to the loss. If the customer proves that the bank did
21 not pay the item in good faith, the preclusion under subsection (4)
22 does not apply.

23 (6) Without regard to care or lack of care of either the customer
24 or the bank, a natural person whose account is primarily for personal,
25 family, or household purposes who does not within one year and any
26 other customer who does not within sixty days ~~((from the time))~~ after
27 the statement ~~((and))~~ or items are made available to the customer
28 (subsection (1) of this section) discover and report ~~((his or her))~~ the
29 customer's unauthorized signature on or any alteration on the ~~((face or~~
30 ~~back of the item or does not within three years from that time discover~~
31 ~~and report any unauthorized indorsement))~~ item is precluded from
32 asserting against the bank ~~((such))~~ the unauthorized signature or
33 ~~((indorsement or such))~~ alteration.

34 ~~((5) If under this section a payor bank has a valid defense~~
35 ~~against a claim of a customer upon or resulting from payment of an item~~
36 ~~and waives or fails upon request to assert the defense the bank may not~~
37 ~~assert against any collecting bank or other prior party presenting or~~
38 ~~transferring the item a claim based upon the unauthorized signature or~~
39 ~~alteration giving rise to the customer's claim.))~~ If there is a

1 preclusion under this subsection, the payor bank may not recover for
2 breach of warranty under RCW 62A.4-208 with respect to the unauthorized
3 signature or alteration to which the preclusion applies.

4 **Sec. 106.** RCW 62A.4-407 and 1965 ex.s. c 157 s 4-407 are each
5 amended to read as follows:

6 PAYOR BANK'S RIGHT TO SUBROGATION ON IMPROPER PAYMENT. If a payor
7 bank has paid an item over the ~~((stop payment))~~ order of the drawer or
8 maker to stop payment, or after an account has been closed, or
9 otherwise under circumstances giving a basis for objection by the
10 drawer or maker, to prevent unjust enrichment and only to the extent
11 necessary to prevent loss to the bank by reason of its payment of the
12 item, the payor bank ~~((shall be))~~ is subrogated to the rights:

13 (a) Of any holder in due course on the item against the drawer or
14 maker; ~~((and))~~

15 (b) Of the payee or any other holder of the item against the drawer
16 or maker either on the item or under the transaction out of which the
17 item arose; and

18 (c) Of the drawer or maker against the payee or any other holder of
19 the item with respect to the transaction out of which the item arose.

20 PART 5

21 COLLECTION OF DOCUMENTARY DRAFTS

22 **Sec. 107.** RCW 62A.4-501 and 1965 ex.s. c 157 s 4-501 are each
23 amended to read as follows:

24 HANDLING OF DOCUMENTARY DRAFTS; DUTY TO SEND FOR PRESENTMENT AND TO
25 NOTIFY CUSTOMER OF DISHONOR. A bank ~~((which))~~ that takes a documentary
26 draft for collection ~~((must))~~ shall present or send the draft and
27 accompanying documents for presentment and, upon learning that the
28 draft has not been paid or accepted in due course ~~((must)),~~ shall
29 seasonably notify its customer of ~~((such))~~ the fact even though it may
30 have discounted or bought the draft or extended credit available for
31 withdrawal as of right.

32 **Sec. 108.** RCW 62A.4-502 and 1965 ex.s. c 157 s 4-502 are each
33 amended to read as follows:

34 PRESENTMENT OF "ON ARRIVAL" DRAFTS. ~~((When))~~ If a draft or the
35 relevant instructions require presentment "on arrival", "when goods

1 arrive" or the like, the collecting bank need not present until in its
2 judgment a reasonable time for arrival of the goods has expired.
3 Refusal to pay or accept because the goods have not arrived is not
4 dishonor; the bank must notify its transferor of (~~such~~) the refusal
5 but need not present the draft again until it is instructed to do so or
6 learns of the arrival of the goods.

7 **Sec. 109.** RCW 62A.4-503 and 1965 ex.s. c 157 s 4-503 are each
8 amended to read as follows:

9 RESPONSIBILITY OF PRESENTING BANK FOR DOCUMENTS AND GOODS; REPORT
10 OF REASONS FOR DISHONOR; REFEREE IN CASE OF NEED. Unless otherwise
11 instructed and except as provided in Article 5, a bank presenting a
12 documentary draft:

13 (a) Must deliver the documents to the drawee on acceptance of the
14 draft if it is payable more than three days after presentment;
15 otherwise, only on payment; and

16 (b) Upon dishonor, either in the case of presentment for acceptance
17 or presentment for payment, may seek and follow instructions from any
18 referee in case of need designated in the draft or, if the presenting
19 bank does not choose to utilize (~~his~~) the referee's services, it must
20 use diligence and good faith to ascertain the reason for dishonor, must
21 notify its transferor of the dishonor and of the results of its effort
22 to ascertain the reasons therefor, and must request instructions.
23 (~~But~~) However, the presenting bank is under no obligation with
24 respect to goods represented by the documents except to follow any
25 reasonable instructions seasonably received; it has a right to
26 reimbursement for any expense incurred in following instructions and to
27 prepayment of or indemnity for (~~such~~) those expenses.

28 **Sec. 110.** RCW 62A.4-504 and 1965 ex.s. c 157 s 4-504 are each
29 amended to read as follows:

30 PRIVILEGE OF PRESENTING BANK TO DEAL WITH GOODS; SECURITY INTEREST
31 FOR EXPENSES. (1) A presenting bank (~~which~~) that, following the
32 dishonor of a documentary draft, has seasonably requested instructions
33 but does not receive them within a reasonable time may store, sell, or
34 otherwise deal with the goods in any reasonable manner.

35 (2) For its reasonable expenses incurred by action under subsection
36 (1) the presenting bank has a lien upon the goods or their proceeds,
37 which may be foreclosed in the same manner as an unpaid seller's lien.

1 NEW SECTION. **Sec. 111.** (1) RCW 62A.4-106, 62A.4-107, 62A.4-108,
2 62A.4-208, 62A.4-209, 62A.4-210, 62A.4-211, 62A.4-212, 62A.4-213, and
3 62A.4-214, as amended by this act, may be recodified as necessary by
4 the code reviser to preserve the arrangement of the uniform commercial
5 code of the national conference of commissioners on uniform state laws.

6 (2) The code reviser shall correct all references in the Revised
7 Code of Washington to the sections of the code that may be recodified
8 by this section.

9 NEW SECTION. **Sec. 112.** RCW 62A.4-109 and 1965 ex.s. c 157 s 4-109
10 are each repealed.

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