
ENGROSSED SUBSTITUTE HOUSE BILL 2197

State of Washington

62nd Legislature

2012 Regular Session

By House Judiciary (originally sponsored by Representatives Pedersen, Rodne, and Eddy; by request of Uniform Laws Commission)

READ FIRST TIME 01/25/12.

1 AN ACT Relating to the Uniform Commercial Code; amending RCW 62A.1-
2 101, 62A.1-102, 62A.1-103, 62A.1-104, 62A.1-105, 62A.1-106, 62A.1-107,
3 62A.1-108, 62A.1-201, 62A.1-202, 62A.1-203, 62A.1-204, 62A.1-205,
4 62A.1-206, 62A.7-101, 62A.7-102, 62A.7-103, 62A.7-104, 62A.7-105,
5 62A.7-201, 62A.7-202, 62A.7-203, 62A.7-204, 62A.7-205, 62A.7-206,
6 62A.7-207, 62A.7-208, 62A.7-209, 62A.7-210, 62A.7-301, 62A.7-302,
7 62A.7-303, 62A.7-304, 62A.7-305, 62A.7-307, 62A.7-308, 62A.7-309,
8 62A.7-401, 62A.7-402, 62A.7-403, 62A.7-404, 62A.7-501, 62A.7-502,
9 62A.7-503, 62A.7-504, 62A.7-505, 62A.7-506, 62A.7-507, 62A.7-508,
10 62A.7-509, 62A.7-601, 62A.7-602, 62A.7-603, 62A.2-103, 62A.2-104,
11 62A.2-202, 62A.2-310, 62A.2-323, 62A.2-401, 62A.2-503, 62A.2-505,
12 62A.2-506, 62A.2-509, 62A.2-605, 62A.2-705, 62A.2A-103, 62A.2A-103,
13 62A.2A-501, 62A.2A-514, 62A.2A-518, 62A.2A-519, 62A.2A-526, 62A.2A-527,
14 62A.2A-528, 62A.3-103, 62A.4-104, 62A.4-210, 62A.4A-105, 62A.4A-106,
15 62A.4A-204, 62A.5-103, 62A.8-102, 62A.8-103, 62A.8-103, 62A.9A-102,
16 62A.9A-102, 62A.9A-203, 62A.9A-207, 62A.9A-208, 62A.9A-301, 62A.9A-310,
17 62A.9A-310, 62A.9A-312, 62A.9A-313, 62A.9A-313, 62A.9A-314, 62A.9A-317,
18 62A.9A-317, 62A.9A-338, 62A.9A-338, 62A.9A-601, 62A.9A-601, 62A.5-102,
19 62A.5-104, 62A.5-106, 62A.5-107, 62A.5-108, 62A.5-109, 62A.5-110,
20 62A.5-111, 62A.5-112, 62A.5-113, 62A.5-114, 62A.5-116, 62A.5-117,
21 62A.5-118, 62A.2-512, and 62A.9A-107; adding new sections to chapter

1 62A.1 RCW; adding a new section to chapter 62A.7 RCW; creating new
2 sections; repealing RCW 62A.1-109, 62A.1-207, 62A.1-208, 62A.2-208,
3 62A.2A-207, and 62A.10-104; repealing 2011 c 74 s 801; providing an
4 effective date; and providing an expiration date.

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

6 **PART I**
7 **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 1**

8 **Sec. 101.** RCW 62A.1-101 and 1965 ex.s. c 157 s 1-101 are each
9 amended to read as follows:

10 SHORT TITLES. (a) This title (~~(shall be known and)~~) may be cited
11 as the Uniform Commercial Code.

12 (b) This Article may be cited as Uniform Commercial Code--General
13 Provisions.

14 **Sec. 102.** RCW 62A.1-102 and 1965 ex.s. c 157 s 1-102 are each
15 amended to read as follows:

16 (~~(PURPOSES; RULES OF CONSTRUCTION; VARIATION BY AGREEMENT.)~~) SCOPE
17 OF ARTICLE. (~~((1) This Title shall be liberally construed and applied~~
18 ~~to promote its underlying purposes and policies.~~

19 ~~(2) Underlying purposes and policies of this Title are~~

20 ~~(a) to simplify, clarify and modernize the law governing commercial~~
21 ~~transactions;~~

22 ~~(b) to permit the continued expansion of commercial practices~~
23 ~~through custom, usage and agreement of the parties;~~

24 ~~(c) to make uniform the law among the various jurisdictions.~~

25 ~~(3) The effect of provisions of this Title may be varied by~~
26 ~~agreement, except as otherwise provided in this Title and except that~~
27 ~~the obligations of good faith, diligence, reasonableness and care~~
28 ~~prescribed by this Title may not be disclaimed by agreement but the~~
29 ~~parties may by agreement determine the standards by which the~~
30 ~~performance of such obligations is to be measured if such standards are~~
31 ~~not manifestly unreasonable.~~

32 ~~(4) The presence in certain provisions of this Title of the words~~
33 ~~"unless otherwise agreed" or words of similar import does not imply~~

1 that the effect of other provisions may not be varied by agreement
2 under subsection (3).

3 ~~(5) In this Title unless the context otherwise requires~~

4 ~~(a) words in the singular number include the plural, and in the~~
5 ~~plural include the singular;~~

6 ~~(b) words of the masculine gender include the feminine and the~~
7 ~~neuter, and when the sense so indicates words of the neuter gender may~~
8 ~~refer to any gender.)~~) This Article applies to a transaction to the

9 extent that it is governed by another article of this title.

10 **Sec. 103.** RCW 62A.1-103 and 1965 ex.s. c 157 s 1-103 are each
11 amended to read as follows:

12 ((SUPPLEMENTARY — GENERAL — PRINCIPLES — OF — LAW — APPLICABLE.))

13 CONSTRUCTION OF UNIFORM COMMERCIAL CODE TO PROMOTE ITS PURPOSES AND
14 POLICIES; APPLICABILITY OF SUPPLEMENTAL PRINCIPLES OF LAW. (a) This
15 title must be liberally construed and applied to promote its underlying
16 purposes and policies, which are:

17 (1) To simplify, clarify, and modernize the law governing
18 commercial transactions;

19 (2) To permit the continued expansion of commercial practices
20 through custom, usage, and agreement of the parties; and

21 (3) To make uniform the law among the various jurisdictions.

22 (b) Unless displaced by the particular provisions of this title,
23 the principles of law and equity, including the law merchant and the
24 law relative to capacity to contract, principal and agent, estoppel,
25 fraud, misrepresentation, duress, coercion, mistake, bankruptcy, ((or))
26 and other validating or invalidating cause ((shall)) supplement its
27 provisions.

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

30 CONSTRUCTION AGAINST ((IMPLICIT)) IMPLIED REPEAL. This title being
31 a general act intended as a unified coverage of its subject matter, no
32 part of it shall be deemed to be impliedly repealed by subsequent
33 legislation if such construction can reasonably be avoided.

34 **Sec. 105.** RCW 62A.1-105 and 2001 c 32 s 8 are each amended to read
35 as follows:

1 ((TERRITORIAL APPLICATION OF THE TITLE; PARTIES' POWER TO CHOOSE
2 APPLICABLE LAW.)) SEVERABILITY. ((1) Except as provided hereafter in
3 this section, when a transaction bears a reasonable relation to this
4 state and also to another state or nation the parties may agree that
5 the law either of this state or of such other state or nation shall
6 govern their rights and duties. Failing such agreement this Title
7 applies to transactions bearing an appropriate relation to this state.

8 (2) Where one of the following provisions of this Title specifies
9 the applicable law, that provision governs and a contrary agreement is
10 effective only to the extent permitted by the law (including the
11 conflict of laws rules) so specified:

12 Rights of creditors against sold goods. — RCW 62A.2-402.

13 Applicability of the Article on Leases. — RCW 62A.2A-105 and
14 62A.2A-106.

15 Applicability of the Article on Bank Deposits and Collections. — RCW
16 62A.4-102.

17 Governing law in the Article on Funds Transfers. — RCW 62A.4A-507.

18 Letters of Credit. — RCW 62A.5-116.

19 Applicability of the Article on Investment Securities. — RCW
20 62A.8-110.

21 Law governing perfection, the effect of perfection or
22 nonperfection, and the priority of security interests and agricultural
23 liens. — RCW 62A.9A-301 through 62A.9A-307.)) If any provision or clause
24 of this title or its application to any person or circumstance is held
25 invalid, the invalidity does not affect other provisions or
26 applications of this title which can be given effect without the
27 invalid provision or application, and to this end the provisions of
28 this title are severable.

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

31 ((REMEDIES TO BE LIBERALLY ADMINISTERED.)) USE OF SINGULAR AND
32 PLURAL; GENDER. ((1) The remedies provided by this Title shall be
33 liberally administered to the end that the aggrieved party may be put
34 in as good a position as if the other party had fully performed but
35 neither consequential or special nor penal damages may be had except as
36 specifically provided in this Title or by other rule of law.

1 ~~(2) Any right or obligation declared by this Title is enforceable~~
2 ~~by action unless the provision declaring it specifies a different and~~
3 ~~limited effect.)) In this title, unless the statutory context otherwise~~
4 ~~requires:~~

5 ~~(1) Words in the singular number include the plural, and those in~~
6 ~~the plural include the singular; and~~

7 ~~(2) Words of any gender also refer to any other gender.~~

8 **Sec. 107.** RCW 62A.1-107 and 1965 ex.s. c 157 s 1-107. Cf. former
9 RCW sections: (i) RCW 62.01.119(3) are each amended to read as
10 follows:

11 ~~((WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER BREACH.)) SECTION~~
12 ~~CAPTIONS. ((Any claim or right arising out of an alleged breach can be~~
13 ~~discharged in whole or in part without consideration by a written~~
14 ~~waiver or renunciation signed and delivered by the aggrieved party.))~~
15 ~~Section captions are part of this title.~~

16 **Sec. 108.** RCW 62A.1-108 and 1965 ex.s. c 157 s 1-108 are each
17 amended to read as follows:

18 ~~((SEVERABILITY.)) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND~~
19 ~~NATIONAL COMMERCE ACT. ((If any provision or clause of this Title or~~
20 ~~application thereof to any person or circumstances is held invalid,~~
21 ~~such invalidity shall not affect other provisions or applications of~~
22 ~~the Title which can be given effect without the invalid provision or~~
23 ~~application, and to this end the provisions of this Title are declared~~
24 ~~to be severable.)) Except as provided in this section, this Article~~
25 ~~modifies, limits, and supersedes the federal electronic signatures in~~
26 ~~global and national commerce act, 15 U.S.C. Sec. 7001 et seq., except~~
27 ~~that nothing in this Article modifies, limits, or supersedes section~~
28 ~~7001(c) of that act, and nothing in this section either authorizes or~~
29 ~~prohibits electronic delivery of any of the notices described in~~
30 ~~section 7003(b) of that act. This section does not modify, limit, or~~
31 ~~supersede application of the federal electronic signatures in global~~
32 ~~and national commerce act, 15 U.S.C. Sec. 7001 et seq., to transactions~~
33 ~~governed by Article 2 or 2A of this title.~~

34 **Sec. 109.** RCW 62A.1-201 and 2001 c 32 s 9 are each amended to read
35 as follows:

1 GENERAL DEFINITIONS. (a) Unless the context otherwise requires,
2 words or phrases defined in this section, or in the additional
3 definitions contained in other articles of this title that apply to
4 particular articles or parts thereof, have the meanings stated.

5 (b) Subject to ((additional)) definitions contained in ((the
6 subsequent)) other articles of this title ((which are applicable to
7 specific)) that apply to particular articles or parts thereof((, and
8 unless the context otherwise requires, in this Title)):

9 (1) "Action," in the sense of a judicial proceeding, includes
10 recoupment, counterclaim, set-off, suit in equity, and any other
11 proceeding((s)) in which rights are determined.

12 (2) "Aggrieved party" means a party entitled to ~~((resort to))~~
13 pursue a remedy.

14 (3) "Agreement," as distinguished from "contract," means the
15 bargain of the parties in fact, as found in their language or ~~((by~~
16 ~~implication))~~ inferred from other circumstances, including course of
17 performance, course of dealing, or usage of trade ~~((or course of~~
18 ~~performance))~~ as provided in ~~((this Title (RCW 62A.1-205, RCW 62A.2-~~
19 ~~208, and RCW 62A.2A-207)). Whether an agreement has legal consequences~~
20 ~~is determined by the provisions of this Title, if applicable; otherwise~~
21 ~~by the law of contracts (RCW 62A.1-103))~~ RCW 62A.1-303. ~~((Compare~~
22 ~~"Contract".))~~

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

26 (5) "Bearer" means ~~((the))~~ a person in control of a negotiable
27 electronic document of title or a person in possession of ~~((an))~~ a
28 negotiable instrument, negotiable tangible document of title, or
29 certificated security that is payable to bearer or indorsed in blank.

30 (6) "Bill of lading" means a document of title evidencing the
31 receipt of goods for shipment issued by a person engaged in the
32 business of directly or indirectly transporting or forwarding goods~~((~~
33 ~~and includes an airbill. "Airbill" means a document serving for air~~
34 ~~transportation as a bill of lading does for marine or rail~~
35 ~~transportation, and includes an air consignment note or air waybill)).~~
36 The term does not include a warehouse receipt.

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

1 (8) "Burden of establishing" a fact means the burden of persuading
2 the trier(~~s~~) of fact that the existence of the fact is more probable
3 than its nonexistence.

4 (9) "Buyer in ordinary course of business" means a person that buys
5 goods in good faith, without knowledge that the sale violates the
6 rights of another person in the goods, and in the ordinary course from
7 a person, other than a pawnbroker, in the business of selling goods of
8 that kind. A person buys goods in the ordinary course if the sale to
9 the person comports with the usual or customary practices in the kind
10 of business in which the seller is engaged or with the seller's own
11 usual or customary practices. A person that sells oil, gas, or other
12 minerals at the wellhead or minehead is a person in the business of
13 selling goods of that kind. A buyer in ordinary course of business may
14 buy for cash, by exchange of other property, or on secured or unsecured
15 credit, and may acquire goods or documents of title under a (~~pre-~~
16 ~~existing~~) preexisting contract for sale. Only a buyer that takes
17 possession of the goods or has a right to recover the goods from the
18 seller under Article (~~62A.2 RCW~~) 2 of this title may be a buyer in
19 ordinary course of business. "Buyer in ordinary course of business"
20 does not include a person that acquires goods in a transfer in bulk or
21 as security for or in total or partial satisfaction of a money debt
22 (~~is not a buyer in ordinary course of business~~).

23 (10) "Conspicuous," (~~+~~) with reference to a term (~~or clause is~~
24 ~~conspicuous when it is~~), means so written, displayed, or presented
25 that a reasonable person against (~~whom~~) which it is to operate ought
26 to have noticed it. (~~A printed heading in capitals (as: NON-~~
27 ~~NEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a~~
28 ~~form is "conspicuous" if it is in larger or other contrasting type or~~
29 ~~color. But in a telegram any stated term is "conspicuous".)~~ Whether
30 a term (~~or clause~~) is "conspicuous" or not is (~~for~~) a decision
31 (~~by~~) for the court. Conspicuous terms include the following:

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

35 (B) Language in the body of a record or display in larger type than
36 the surrounding text, or in contrasting type, font, or color to the
37 surrounding text of the same size, or set off from surrounding text of

1 the same size by symbols or other marks that call attention to the
2 language.

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

5 (12) "Contract," as distinguished from "agreement," means the total
6 legal obligation ~~((which))~~ that results from the parties' agreement as
7 ~~((affected))~~ determined by this title ~~((and))~~ as supplemented by any
8 other applicable ~~((rules of))~~ laws. ~~((Compare "Agreement".))~~

9 ~~((12))~~ (13) "Creditor" includes a general creditor, a secured
10 creditor, a lien creditor, and any representative of creditors,
11 including an assignee for the benefit of creditors, a trustee in
12 bankruptcy, a receiver in equity, and an executor or administrator of
13 an insolvent debtor's or assignor's estate.

14 ~~((13))~~ (14) "Defendant" includes a person in the position of
15 defendant in a ~~((cross action or))~~ counterclaim, cross-claim, or third-
16 party claim.

17 ~~((14))~~ (15) "Delivery," with respect to an electronic document of
18 title means voluntary transfer of control and with respect to an
19 instrument ~~((s))~~, a tangible document ~~((s))~~ of title, or chattel paper,
20 ~~((or certificated securities))~~ means voluntary transfer of possession.

21 ~~((15))~~ (16) "Document of title" ~~((includes bill of lading, dock~~
22 warrant, dock receipt, warehouse receipt or order for the delivery of
23 goods, and also any other document which)) means a record (i) that in
24 the regular course of business or financing is treated as adequately
25 evidencing that the person in possession or control of ~~((it))~~ the
26 record is entitled to receive, control, hold, and dispose of the
27 ~~((document))~~ record and the goods ~~((it))~~ the record covers ~~((To be a~~
28 document of title a document must purport to be issued by or addressed
29 to a bailee and purport to cover goods in the bailee's possession which
30 are either identified or are fungible portions of an identified mass))
31 and (ii) that purports to be issued by or addressed to a bailee and to
32 cover goods in the bailee's possession which are either identified or
33 are fungible portions of an identified mass. The term includes a bill
34 of lading, transport document, dock warrant, dock receipt, warehouse
35 receipt, and order for delivery of goods. An electronic document of
36 title means a document of title evidenced by a record consisting of
37 information stored in an electronic medium. A tangible document of

1 title means a document of title evidenced by a record consisting of
2 information that is inscribed on a tangible medium.

3 ~~((+16+))~~ (17) "Fault" means a default, breach, or wrongful act~~((+))~~
4 or omission ~~((or breach))~~.

5 ~~((+17+))~~ (18) "Fungible goods" ~~((with respect to goods or~~
6 ~~securities))~~ means:
7 (A) Goods ~~((or securities))~~ of which any unit ~~((is))~~, by nature or
8 usage of trade, is the equivalent of any other like unit~~((+))~~; or
9 (B) Goods ~~((which are not fungible shall be deemed fungible for the~~
10 ~~purposes of this Title to the extent))~~ that ~~((under a particular))~~ by
11 agreement ~~((or document unlike units))~~ are treated as equivalent~~((s))~~.
12 ~~((+18+))~~ (19) "Genuine" means free of forgery or counterfeiting.
13 ~~((+19+))~~ (20) "Good faith," except as otherwise provided in Article
14 5 of this title, means honesty in fact ~~((in the conduct or transaction~~
15 ~~concerned))~~ and the observance of reasonable commercial standards of
16 fair dealing.

17 ~~((+20+))~~ (21) "Holder" with respect to a negotiable instrument,
18 means:
19 (A) The person in possession ~~((if the))~~ of a negotiable instrument
20 that is payable either to bearer or~~((+))~~ ~~((in the case of an instrument~~
21 ~~payable to an identified person, if the))~~ to an identified person that
22 is the person in possession~~((+))~~ ~~((+ "Holder" with respect to))~~;
23 (B) The person in possession of a negotiable tangible document of
24 title ~~((means the person in possession))~~ if the goods are deliverable
25 either to bearer or to the order of the person in possession; or
26 (C) The person in control of a negotiable electronic document of
27 title.

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

31 (22) "Insolvency proceeding~~((s))~~" includes ~~((any))~~ an assignment
32 for the benefit of creditors or other proceeding~~((s))~~ intended to
33 liquidate or rehabilitate the estate of the person involved.

34 (23) ~~((A person is))~~ "Insolvent" ~~((who either has))~~ means:
35 (A) Having generally ceased to pay ~~((his or her))~~ debts in the
36 ordinary course of business ~~((or cannot))~~ other than as a result of
37 bona fide dispute;

1 (B) Being unable to pay (~~(his or her)~~) debts as they become due; or
2 (~~is~~)

3 (C) Being insolvent within the meaning of (~~the~~) federal
4 bankruptcy law.

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

9 (25) (~~A person has "notice" of a fact when~~
10 ~~(a) he or she has actual knowledge of it; or~~
11 ~~(b) he or she has received a notice or notification of it; or~~
12 ~~(c) from all the facts and circumstances known to him or her at the~~
13 ~~time in question he or she has reason to know that it exists.~~

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

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

23 ~~(a) it comes to his or her attention; or~~
24 ~~(b) it is duly delivered at the place of business through which the~~
25 ~~contract was made or at any other place held out by him or her as the~~
26 ~~place for receipt of such communications.~~

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

1 ~~has reason to know of the transaction and that the transaction would be~~
2 ~~materially affected by the information.~~

3 ~~(+28+))~~ "Organization" ~~((includes))~~ means a corporation,
4 ~~((government or governmental subdivision or agency,))~~ business trust,
5 estate, trust, partnership ~~((or association, two or more persons having~~
6 ~~a joint or common interest))~~, limited liability company, association,
7 joint venture, government, governmental subdivision, agency, or
8 instrumentality, public corporation, or any other legal or commercial
9 entity.

10 ~~((+29+))~~ (26) "Party_L"~~((τ))~~ as ~~((distinct))~~ distinguished from
11 "third party_L"~~((τ))~~ means a person ~~((who))~~ that has engaged in a
12 transaction or made an agreement ~~((within))~~ subject to this title.

13 ~~((+30+))~~ (27) "Person" ~~((includes))~~ means an individual or an
14 organization ~~((+See RCW 62A.1-102+))~~.

15 ~~((+31+))~~ "Presumption" ~~or "presumed"~~ means ~~that the trier of fact~~
16 ~~must find the existence of the fact presumed unless and until evidence~~
17 ~~is introduced which would support a finding of its nonexistence.~~

18 ~~(+32+))~~ (28) "Present value" means the amount as of a date certain
19 of one or more sums payable in the future, discounted to the date
20 certain by use of either an interest rate specified by the parties if
21 that rate is not manifestly unreasonable at the time the transaction is
22 entered into or, if an interest rate is not so specified, a
23 commercially reasonable rate that takes into account the facts and
24 circumstances at the time the transaction is entered into.

25 (29) "Purchase" ~~((includes))~~ means taking by sale, lease, discount,
26 negotiation, mortgage, pledge, lien, security interest, issue or ~~((re-~~
27 ~~issue))~~ reissue, gift_L or any other voluntary transaction creating an
28 interest in property.

29 ~~((+33+))~~ (30) "Purchaser" means a person ~~((who))~~ that takes by
30 purchase.

31 ~~((+34+))~~ (31) "Record" means information that is inscribed on a
32 tangible medium or that is stored in an electronic or other medium and
33 is retrievable in perceivable form.

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

36 ~~((+35+))~~ (33) "Representative" ~~((includes))~~ means a person
37 empowered to act for another, including an agent, an officer of a

1 corporation or association, and a trustee, executor, or administrator
2 of an estate(~~(, or any other person empowered to act for another)~~).

3 ~~((+36))~~ (34) "Right(~~(s)~~)" includes ~~((remedies))~~ remedy.

4 ~~((+37))~~ (35) "Security interest" means an interest in personal
5 property or fixtures which secures payment or performance of an
6 obligation(~~(, except for lease purchase agreements under chapter 63.19~~
7 ~~RCW. The term also)~~). "Security interest" includes any interest of a
8 consignor and a buyer of accounts, chattel paper, a payment intangible,
9 or a promissory note in a transaction that is subject to Article 9A of
10 this title. "Security interest" does not include the special property
11 interest of a buyer of goods on identification of ((such)) those goods
12 to a contract for sale under RCW 62A.2-401 ((is not a "security
13 interest")), but a buyer may also acquire a "security interest" by
14 complying with Article 9A of this title. Except as otherwise provided
15 in RCW 62A.2-505, the right of a seller or lessor of goods under
16 Article 2 or 2A of this title to retain or acquire possession of the
17 goods is not a "security interest," but a seller or lessor may also
18 acquire a "security interest" by complying with Article 9A of this
19 title. The retention or reservation of title by a seller of goods
20 notwithstanding shipment or delivery to the buyer ~~((+))~~ under RCW
21 62A.2-401~~((+))~~ is limited in effect to a reservation of a "security
22 interest." Whether a transaction in the form of a lease creates a
23 ~~((lease or))~~ "security interest" is determined ~~((by the facts of each~~
24 ~~case. However, a transaction creates a security interest if the~~
25 ~~consideration the lessee is to pay the lessor for the right to~~
26 ~~possession and use of the goods is an obligation for the term of the~~
27 ~~lease not subject to termination by the lessee, and:~~

28 ~~(a) The original term of the lease is equal to or greater than the~~
29 ~~remaining economic life of the goods;~~

30 ~~(b) The lessee is bound to renew the lease for the remaining~~
31 ~~economic life of the goods or is bound to become the owner of the~~
32 ~~goods;~~

33 ~~(c) The lessee has an option to renew the lease for the remaining~~
34 ~~economic life of the goods for no additional consideration or nominal~~
35 ~~additional consideration upon compliance with the lease agreement; or~~

36 ~~(d) The lessee has an option to become the owner of the goods for~~
37 ~~no additional consideration or nominal additional consideration upon~~
38 ~~compliance with the lease agreement.~~

1 ~~A transaction does not create a security interest merely because it~~
2 ~~provides that:~~

3 ~~(a) The present value of the consideration the lessee is obligated~~
4 ~~to pay the lessor for the right to possession and use of the goods is~~
5 ~~substantially equal to or is greater than the fair market value of the~~
6 ~~goods at the time the lease is entered into;~~

7 ~~(b) The lessee assumes risk of loss of the goods, or agrees to pay~~
8 ~~taxes, insurance, filing, recording, or registration fees, or service~~
9 ~~or maintenance costs with respect to the goods;~~

10 ~~(c) The lessee has an option to renew the lease or to become the~~
11 ~~owner of the goods;~~

12 ~~(d) The lessee has an option to renew the lease for a fixed rent~~
13 ~~that is equal to or greater than the reasonably predictable fair market~~
14 ~~rent for the use of the goods for the term of the renewal at the time~~
15 ~~the option is to be performed;~~

16 ~~(e) The lessee has an option to become the owner of the goods for~~
17 ~~a fixed price that is equal to or greater than the reasonably~~
18 ~~predictable fair market value of the goods at the time the option is to~~
19 ~~be performed; or~~

20 ~~(f) The amount of rental payments may or will be increased or~~
21 ~~decreased by reference to the amount realized by the lessor upon sale~~
22 ~~or disposition of the goods.~~

23 ~~For purposes of this subsection (37):~~

24 ~~(a) Additional consideration is not nominal if (i) when the option~~
25 ~~to renew the lease is granted to the lessee the rent is stated to be~~
26 ~~the fair market rent for the use of the goods for the term of the~~
27 ~~renewal determined at the time the option is to be performed, or (ii)~~
28 ~~when the option to become the owner of the goods is granted to the~~
29 ~~lessee the price is stated to be the fair market value of the goods~~
30 ~~determined at the time the option is to be performed. Additional~~
31 ~~consideration is nominal if it is less than the lessee's reasonably~~
32 ~~predictable cost of performing under the lease agreement if the option~~
33 ~~is not exercised;~~

34 ~~(b) "Reasonably predictable" and "remaining economic life of the~~
35 ~~goods" are to be determined with reference to the facts and~~
36 ~~circumstances at the time the transaction is entered into; and~~

37 ~~(c) "Present value" means the amount as of a date certain of one or~~
38 ~~more sums payable in the future, discounted to the date certain. The~~

1 ~~discount is determined by the interest rate specified by the parties if~~
2 ~~the rate is not manifestly unreasonable at the time the transaction is~~
3 ~~entered into; otherwise, the discount is determined by a commercially~~
4 ~~reasonable rate that takes into account the facts and circumstances of~~
5 ~~each case at the time the transaction was entered into)) pursuant to~~
6 RCW 62A.1-203.

7 ~~((+38+))~~ (36) "Send" in connection with ~~((any))~~ a writing, record,
8 or notice means:

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

15 (B) In any other way to cause to be received any record or notice
16 within the time ~~((at which))~~ it would have arrived if properly sent
17 ~~((has the effect of a proper sending)).~~

18 ~~((+39+))~~ (37) "Signed" includes using any symbol executed or
19 adopted ~~((by a party))~~ with present intention to ~~((authenticate))~~ adopt
20 or accept a writing.

21 ~~((+40+))~~ (38) "State" means a State of the United States, the
22 District of Columbia, Puerto Rico, the United States Virgin Islands, or
23 any territory or insular possession subject to the jurisdiction of the
24 United States.

25 (39) "Surety" includes a guarantor or other secondary obligor.

26 ~~((+41) - "Telegram" - includes - a - message - transmitted - by - radio,~~
27 ~~teletype, cable, any mechanical method of transmission, or the like.~~

28 ~~(+42+))~~ (40) "Term" means ~~((that))~~ a portion of an agreement
29 ~~((which))~~ that relates to a particular matter.

30 ~~((+43+))~~ (41) "Unauthorized~~((=))~~ signature" means ~~((one))~~ a
31 signature made without actual, implied, or apparent authority ~~((and))~~.
32 The term includes a forgery.

33 ~~((+44) - "Value". - Except - as - otherwise - provided - with - respect - to~~
34 ~~negotiable instruments and bank collections (RCW 62A.3-303, RCW 62A.4-~~
35 ~~210, and RCW 62A.4-211) a person gives "value" for rights if he or she~~
36 ~~acquires them~~

37 ~~(a) in return for a binding commitment to extend credit or for the~~

1 ~~extension of immediately available credit whether or not drawn upon and~~
2 ~~whether or not a charge back is provided for in the event of~~
3 ~~difficulties in collection; or~~

4 ~~(b) as security for or in total or partial satisfaction of a~~
5 ~~preexisting claim; or~~

6 ~~(c) by accepting delivery pursuant to a pre-existing contract for~~
7 ~~purchase; or~~

8 ~~(d) generally, in return for any consideration sufficient to~~
9 ~~support a simple contract.~~

10 ~~(45))~~ (42) "Warehouse receipt" means a ~~((receipt))~~ document of
11 title issued by a person engaged in the business of storing goods for
12 hire.

13 ~~((46) — "Written" — or))~~ (43) "Writing" includes printing,
14 typewriting, or any other intentional reduction to tangible form.
15 "Written" has a corresponding meaning.

16 **Sec. 110.** RCW 62A.1-202 and 1965 ex.s. c 157 s 1-202 are each
17 amended to read as follows:

18 ~~((PRIMA — FACIE — EVIDENCE — BY — THIRD — PARTY — DOCUMENTS.))~~ NOTICE;
19 KNOWLEDGE. ~~((A document in due form purporting to be a bill of lading,~~
20 ~~policy or certificate of insurance, official weigher's or inspector's~~
21 ~~certificate, consular invoice, or any other document authorized or~~
22 ~~required by the contract to be issued by a third party shall be prima~~
23 ~~facie evidence of its own authenticity and genuineness and of the facts~~
24 ~~stated in the document by the third party.))~~ (a) Subject to subsection
25 (f) of this section, a person has "notice" of a fact if the person:

26 (1) Has actual knowledge of it;

27 (2) Has received a notice or notification of it; or

28 (3) From all the facts and circumstances known to the person at the
29 time in question, has reason to know that it exists.

30 (b) "Knowledge" means actual knowledge. "Knows" has a
31 corresponding meaning.

32 (c) "Discover," "learn," or words of similar import refer to
33 knowledge rather than to reason to know.

34 (d) A person "notifies" or "gives" a notice or notification to
35 another person by taking such steps as may be reasonably required to
36 inform the other person in ordinary course, whether or not the other
37 person actually comes to know of it.

1 (e) Subject to subsection (f) of this section, a person "receives"
2 a notice or notification when:

3 (1) It comes to that person's attention; or

4 (2) It is duly delivered in a form reasonable under the
5 circumstances at the place of business through which the contract was
6 made or at another location held out by that person as the place for
7 receipt of such communications.

8 (f) Notice, knowledge, or a notice or notification received by an
9 organization is effective for a particular transaction from the time it
10 is brought to the attention of the individual conducting that
11 transaction and, in any event, from the time it would have been brought
12 to the individual's attention if the organization had exercised due
13 diligence. An organization exercises due diligence if it maintains
14 reasonable routines for communicating significant information to the
15 person conducting the transaction and there is reasonable compliance
16 with the routines. Due diligence does not require an individual acting
17 for the organization to communicate information unless the
18 communication is part of the individual's regular duties or the
19 individual has reason to know of the transaction and that the
20 transaction would be materially affected by the information.

21 **Sec. 111.** RCW 62A.1-203 and 1965 ex.s. c 157 s 1-203 are each
22 amended to read as follows:

23 ~~((OBLIGATION OF GOOD FAITH.))~~ LEASE DISTINGUISHED FROM SECURITY
24 INTEREST. ((Every contract or duty within this Title imposes an
25 obligation of good faith in its performance or enforcement.)) (a)
26 Whether a transaction in the form of a lease creates a lease or
27 security interest is determined by the facts of each case.

28 (b) A transaction in the form of a lease creates a security
29 interest if the consideration that the lessee is to pay the lessor for
30 the right to possession and use of the goods is an obligation for the
31 term of the lease and is not subject to termination by the lessee, and:

32 (1) The original term of the lease is equal to or greater than the
33 remaining economic life of the goods;

34 (2) The lessee is bound to renew the lease for the remaining
35 economic life of the goods or is bound to become the owner of the
36 goods;

1 (3) The lessee has an option to renew the lease for the remaining
2 economic life of the goods for no additional consideration or for
3 nominal additional consideration upon compliance with the lease
4 agreement; or

5 (4) The lessee has an option to become the owner of the goods for
6 no additional consideration or for nominal additional consideration
7 upon compliance with the lease agreement.

8 (c) A transaction in the form of a lease does not create a security
9 interest merely because:

10 (1) The present value of the consideration the lessee is obligated
11 to pay the lessor for the right to possession and use of the goods is
12 substantially equal to or is greater than the fair market value of the
13 goods at the time the lease is entered into;

14 (2) The lessee assumes risk of loss of the goods;

15 (3) The lessee agrees to pay, with respect to the goods, taxes,
16 insurance, filing, recording, or registration fees, or service or
17 maintenance costs;

18 (4) The lessee has an option to renew the lease or to become the
19 owner of the goods;

20 (5) The lessee has an option to renew the lease for a fixed rent
21 that is equal to or greater than the reasonably predictable fair market
22 rent for the use of the goods for the term of the renewal at the time
23 the option is to be performed; or

24 (6) The lessee has an option to become the owner of the goods for
25 a fixed price that is equal to or greater than the reasonably
26 predictable fair market value of the goods at the time the option is to
27 be performed.

28 (d) Additional consideration is nominal if it is less than the
29 lessee's reasonably predictable cost of performing under the lease
30 agreement if the option is not exercised. Additional consideration is
31 not nominal if:

32 (1) When the option to renew the lease is granted to the lessee,
33 the rent is stated to be the fair market rent for the use of the goods
34 for the term of the renewal determined at the time the option is to be
35 performed; or

36 (2) When the option to become the owner of the goods is granted to
37 the lessee, the price is stated to be the fair market value of the
38 goods determined at the time the option is to be performed.

1 (e) The "remaining economic life of the goods" and "reasonably
2 predictable" fair market rent, fair market value, or cost of performing
3 under the lease agreement must be determined with reference to the
4 facts and circumstances at the time the transaction is entered into.

5 **Sec. 112.** RCW 62A.1-204 and 1965 ex.s. c 157 s 1-204 are each
6 amended to read as follows:

7 ~~((TIME;-REASONABLE-TIME;- "SEASONABLY".))~~ VALUE. ~~((1)-Whenever~~
8 ~~this Title requires any action to be taken within a reasonable time,~~
9 ~~any time which is not manifestly unreasonable may be fixed by~~
10 ~~agreement.~~

11 ~~(2) What is a reasonable time for taking any action depends on the~~
12 ~~nature, purpose and circumstances of such action.~~

13 ~~(3) An action is taken "seasonably" when it is taken at or within~~
14 ~~the time agreed or if no time is agreed at or within a reasonable~~
15 ~~time.))~~ Except as otherwise provided in Articles 3, 4, and 5 of this
16 title, a person gives value for rights if the person acquires them:

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

21 (2) As security for, or in total or partial satisfaction of, a
22 preexisting claim;

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

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

27 **Sec. 113.** RCW 62A.1-205 and 1965 ex.s. c 157 s 1-205 are each
28 amended to read as follows:

29 ~~((COURSE-OF-DEALING-AND-USAGE-OF-TRADE.))~~ REASONABLE TIME;
30 SEASONABLENESS. ~~((1) A course of dealing is a sequence of previous~~
31 ~~conduct between the parties to a particular transaction which is fairly~~
32 ~~to be regarded as establishing a common basis of understanding for~~
33 ~~interpreting their expressions and other conduct.~~

34 ~~(2) A usage of trade is any practice or method of dealing having~~
35 ~~such regularity of observance in a place, vocation or trade as to~~
36 ~~justify an expectation that it will be observed with respect to the~~

1 transaction in question. The existence and scope of such a usage are
2 to be proved as facts. If it is established that such a usage is
3 embodied in a written trade code or similar writing the interpretation
4 of the writing is for the court.

5 (3) A course of dealing between parties and any usage of trade in
6 the vocation or trade in which they are engaged or of which they are or
7 should be aware give particular meaning to and supplement or qualify
8 terms of an agreement.

9 (4) The express terms of an agreement and an applicable course of
10 dealing or usage of trade shall be construed wherever reasonable as
11 consistent with each other; but when such construction is unreasonable
12 express terms control both course of dealing and usage of trade and
13 course of dealing controls usage of trade.

14 (5) An applicable usage of trade in the place where any part of
15 performance is to occur shall be used in interpreting the agreement as
16 to that part of the performance.

17 (6) Evidence of a relevant usage of trade offered by one party is
18 not admissible unless and until he has given the other party such
19 notice as the court finds sufficient to prevent unfair surprise to the
20 latter.) (a) Whether a time for taking an action required by this
21 title is reasonable depends on the nature, purpose, and circumstances
22 of the action.

23 (b) An action is taken seasonably if it is taken at or within the
24 time agreed or, if no time is agreed, at or within a reasonable time.

25 **Sec. 114.** RCW 62A.1-206 and 1995 c 48 s 55 are each amended to
26 read as follows:

27 ((STATUTE OF FRAUDS FOR KINDS OF PERSONAL PROPERTY NOT OTHERWISE
28 COVERED.)) PRESUMPTIONS. ((1) Except in the cases described in
29 subsection (2) of this section a contract for the sale of personal
30 property is not enforceable by way of action or defense beyond five
31 thousand dollars in amount or value of remedy unless there is some
32 writing which indicates that a contract for sale has been made between
33 the parties at a defined or stated price, reasonably identifies the
34 subject matter, and is signed by the party against whom enforcement is
35 sought or by his authorized agent.

36 (2) Subsection (1) of this section does not apply to contracts for
37 the sale of goods (RCW 62A.2-201) nor of securities (RCW 62A.8-113) nor

1 ~~to security agreements (RCW 62A.9-203).~~) Whenever this title creates
2 a "presumption" with respect to a fact, or provides that a fact is
3 "presumed," the trier of fact must find the existence of the fact
4 unless and until evidence is introduced that supports a finding of its
5 nonexistence.

6 NEW SECTION. Sec. 115. A new section is added to chapter 62A.1
7 RCW, to be codified as RCW 62A.1-301, to read as follows:

8 TERRITORIAL APPLICABILITY; PARTIES' POWER TO CHOOSE APPLICABLE LAW.

9 (a) Except as otherwise provided in this section, when a transaction
10 bears a reasonable relation to this state and also to another state or
11 nation the parties may agree that the law either of this state or of
12 such other state or nation shall govern their rights and duties.

13 (b) In the absence of an agreement effective under subsection (a)
14 of this section, and except as provided in subsection (c) of this
15 section, this title applies to transactions bearing an appropriate
16 relation to this state.

17 (c) If one of the following provisions of this title specifies the
18 applicable law, that provision governs and a contrary agreement is
19 effective only to the extent permitted by the law so specified:

- 20 (1) RCW 62A.2-402;
- 21 (2) RCW 62A.2A-105 and 62A.2A-106;
- 22 (3) RCW 62A.4-102;
- 23 (4) RCW 62A.4A-507;
- 24 (5) RCW 62A.5-116;
- 25 (6) RCW 62A.8-110;
- 26 (7) RCW 62A.9A-301 through 62A.9A-307.

27 NEW SECTION. Sec. 116. A new section is added to chapter 62A.1
28 RCW, to be codified as RCW 62A.1-302, to read as follows:

29 VARIATION BY AGREEMENT. (a) Except as otherwise provided in
30 subsection (b) of this section or elsewhere in this title, the effect
31 of provisions of this title may be varied by agreement.

32 (b) The obligations of good faith, diligence, reasonableness, and
33 care prescribed by this title may not be disclaimed by agreement. The
34 parties, by agreement, may determine the standards by which the
35 performance of those obligations is to be measured if those standards

1 are not manifestly unreasonable. Whenever this title requires an
2 action to be taken within a reasonable time, a time that is not
3 manifestly unreasonable may be fixed by agreement.

4 (c) The presence in certain provisions of this title of the phrase
5 "unless otherwise agreed," or words of similar import, does not imply
6 that the effect of other provisions may not be varied by agreement
7 under this section.

8 NEW SECTION. **Sec. 117.** A new section is added to chapter 62A.1
9 RCW, to be codified as RCW 62A.1-303, to read as follows:

10 COURSE OF PERFORMANCE, COURSE OF DEALING, AND USAGE OF TRADE. (a)
11 A "course of performance" is a sequence of conduct between the parties
12 to a particular transaction that exists if:

13 (1) The agreement of the parties with respect to the transaction
14 involves repeated occasions for performance by a party; and

15 (2) The other party, with knowledge of the nature of the
16 performance and opportunity for objection to it, accepts the
17 performance or acquiesces in it without objection.

18 (b) A "course of dealing" is a sequence of conduct concerning
19 previous transactions between the parties to a particular transaction
20 that is fairly to be regarded as establishing a common basis of
21 understanding for interpreting their expressions and other conduct.

22 (c) A "usage of trade" is any practice or method of dealing having
23 such regularity of observance in a place, vocation, or trade as to
24 justify an expectation that it will be observed with respect to the
25 transaction in question. The existence and scope of such a usage must
26 be proved as facts. If it is established that such a usage is embodied
27 in a trade code or similar record, the interpretation of the record is
28 a question of law.

29 (d) A course of performance or course of dealing between the
30 parties or usage of trade in the vocation or trade in which they are
31 engaged or of which they are or should be aware is relevant in
32 ascertaining the meaning of the parties' agreement, may give particular
33 meaning to specific terms of the agreement, and may supplement or
34 qualify the terms of the agreement. A usage of trade applicable in the
35 place in which part of the performance under the agreement is to occur
36 may be so utilized as to that part of the performance.

1 (e) Except as otherwise provided in subsection (f) of this section,
2 the express terms of an agreement and any applicable course of
3 performance, course of dealing, or usage of trade must be construed
4 whenever reasonable as consistent with each other. If such a
5 construction is unreasonable:

6 (1) Express terms prevail over course of performance, course of
7 dealing, and usage of trade;

8 (2) Course of performance prevails over course of dealing and usage
9 of trade; and

10 (3) Course of dealing prevails over usage of trade.

11 (f) Subject to RCW 62A.2-209 and 62A.2A-208, a course of
12 performance is relevant to show a waiver or modification of any term
13 inconsistent with the course of performance.

14 (g) Evidence of a relevant usage of trade offered by one party is
15 not admissible unless that party has given the other party notice that
16 the court finds sufficient to prevent unfair surprise to the other
17 party.

18 NEW SECTION. **Sec. 118.** A new section is added to chapter 62A.1
19 RCW, to be codified as RCW 62A.1-304, to read as follows:

20 OBLIGATION OF GOOD FAITH. Every contract or duty within this title
21 imposes an obligation of good faith in its performance and enforcement.

22 NEW SECTION. **Sec. 119.** A new section is added to chapter 62A.1
23 RCW, to be codified as RCW 62A.1-305, to read as follows:

24 REMEDIES TO BE LIBERALLY ADMINISTERED. (a) The remedies provided
25 by this title must be liberally administered to the end that the
26 aggrieved party may be put in as good a position as if the other party
27 had fully performed but neither consequential or special damages nor
28 penal damages may be had except as specifically provided in this title
29 or by other rule of law.

30 (b) Any right or obligation declared by this title is enforceable
31 by action unless the provision declaring it specifies a different and
32 limited effect.

33 NEW SECTION. **Sec. 120.** A new section is added to chapter 62A.1
34 RCW, to be codified as RCW 62A.1-306, to read as follows:

35 WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER BREACH. A claim or

1 right arising out of an alleged breach may be discharged in whole or in
2 part without consideration by agreement of the aggrieved party in an
3 authenticated record.

4 NEW SECTION. **Sec. 121.** A new section is added to chapter 62A.1
5 RCW, to be codified as RCW 62A.1-307, to read as follows:

6 PRIMA FACIE EVIDENCE BY THIRD-PARTY DOCUMENTS. A document in due
7 form purporting to be a bill of lading, policy or certificate of
8 insurance, official weigher's or inspector's certificate, consular
9 invoice, or any other document authorized or required by the contract
10 to be issued by a third party is prima facie evidence of its own
11 authenticity and genuineness and of the facts stated in the document by
12 the third party.

13 NEW SECTION. **Sec. 122.** A new section is added to chapter 62A.1
14 RCW, to be codified as RCW 62A.1-308, to read as follows:

15 PERFORMANCE OR ACCEPTANCE UNDER RESERVATION OF RIGHTS. (a) A party
16 that with explicit reservation of rights performs or promises
17 performance or assents to performance in a manner demanded or offered
18 by the other party does not thereby prejudice the rights reserved.
19 Such words as "without prejudice," "under protest," or the like are
20 sufficient.

21 (b) Subsection (a) of this section does not apply to an accord and
22 satisfaction.

23 NEW SECTION. **Sec. 123.** A new section is added to chapter 62A.1
24 RCW, to be codified as RCW 62A.1-309, to read as follows:

25 OPTION TO ACCELERATE AT WILL. A term providing that one party or
26 that party's successor in interest may accelerate payment or
27 performance or require collateral or additional collateral "at will" or
28 when the party "deems itself insecure," or words of similar import,
29 means that the party has power to do so only if that party in good
30 faith believes that the prospect of payment or performance is impaired.
31 The burden of establishing lack of good faith is on the party against
32 which the power has been exercised.

33 NEW SECTION. **Sec. 124.** A new section is added to chapter 62A.1
34 RCW, to be codified as RCW 62A.1-310, to read as follows:

1 SUBORDINATED OBLIGATIONS. An obligation may be issued as
2 subordinated to performance of another obligation of the person
3 obligated, or a creditor may subordinate its right to performance of an
4 obligation by agreement with either the person obligated or another
5 creditor of the person obligated. Subordination does not create a
6 security interest as against either the common debtor or a subordinated
7 creditor.

8 PART II

9 AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 7

10 GENERAL

11 **Sec. 201.** RCW 62A.7-101 and 1965 ex.s. c 157 s 7-101 are each
12 amended to read as follows:

13 SHORT TITLE. This Article (~~(shall be known and)~~) may be cited as
14 Uniform Commercial Code--Documents of Title.

15 **Sec. 202.** RCW 62A.7-102 and 2011 c 336 s 825 are each amended to
16 read as follows:

17 DEFINITIONS AND INDEX OF DEFINITIONS. (~~(1)~~) (a) In this Article,
18 unless the context otherwise requires:

19 (~~(a)~~) (1) "Bailee" means (~~(the)~~) a person (~~(who)~~) that by a
20 warehouse receipt, bill of lading, or other document of title
21 acknowledges possession of goods and contracts to deliver them.

22 (~~(b)~~) (2) "Carrier" means a person that issues a bill of lading.

23 (3) "Consignee" means (~~(the)~~) a person named in a bill of lading to
24 (~~(whom)~~) which or to whose order the bill promises delivery.

25 (~~(c)~~) (4) "Consignor" means (~~(the)~~) a person named in a bill of
26 lading as the person from (~~(whom)~~) which the goods have been received
27 for shipment.

28 (~~(d)~~) (5) "Delivery order" means a (~~(written)~~) record that
29 contains an order to deliver goods directed to a warehouse
30 (~~(operator)~~), carrier, or other person (~~(who)~~) that in the ordinary
31 course of business issues warehouse receipts or bills of lading.

32 (~~(e)~~) "~~Document" means document of title as defined in the general~~
33 ~~definitions in Article 1 (RCW 62A.1-201).~~

34 ~~(f)~~) (6) [Reserved.]

1 (7) "Goods" means all things ((which)) that are treated as movable
2 for the purposes of a contract ((of)) for storage or transportation.
3 ~~((+g))~~ (8) "Issuer" means a bailee ((who)) that issues a document
4 ~~((except-that))~~ of title or, in ((relation-to)) the case of an
5 unaccepted delivery order ((it means)), the person ((who)) that orders
6 the possessor of goods to deliver. ((Issuer)) The term includes
7 ~~((any))~~ a person for ((whom)) which an agent or employee purports to
8 act in issuing a document if the agent or employee has real or apparent
9 authority to issue documents, ((notwithstanding-that)) even if the
10 issuer ((received-no)) did not receive any goods ((or-that)), the goods
11 were misdescribed, or ((that)) in any other respect the agent or
12 employee violated ((his-or-her)) the issuer's instructions.
13 ~~((+h))~~ (9) "Person entitled under the document" means the holder,
14 in the case of a negotiable document of title, or the person to which
15 delivery of the goods is to be made by the terms of, or pursuant to
16 instructions in a record under, a nonnegotiable document of title.
17 (10) [Reserved.]
18 (11) "Sign" means, with present intent to authenticate or adopt a
19 record:
20 (A) To execute or adopt a tangible symbol; or
21 (B) To attach to or logically associate with the record an
22 electronic sound, symbol, or process.
23 (12) "Shipper" means a person that enters into a contract of
24 transportation with a carrier.
25 (13) "Warehouse ((operator))" ((is)) means a person engaged in the
26 business of storing goods for hire.
27 ~~((+2))~~ ~~Other definitions applying to this Article or to specified~~
28 ~~Parts thereof, and the sections in which they appear are:~~
29 ~~"Duly negotiate." RCW 62A.7-501.~~
30 ~~"Person entitled under the document." RCW 62A.7-403(4).~~
31 ~~(+3))~~ (b) Definitions in other articles applying to this Article
32 and the sections in which they appear are:
33 (1) "Contract for sale((=))", RCW 62A.2-106((=
34 "Overseas." RCW 62A.2-323.));
35 (2) "Lessee in ordinary course of business," RCW 62A.2A-103; and
36 (3) "Receipt" of goods((=)), RCW 62A.2-103.
37 ~~((+4))~~ (c) In addition, Article 1 contains general definitions and

1 principles of construction and interpretation applicable throughout
2 this Article.

3 **Sec. 203.** RCW 62A.7-103 and 1965 ex.s. c 157 s 7-103 are each
4 amended to read as follows:

5 RELATION OF ARTICLE TO TREATY(~~(T)~~) OR STATUTE(~~(T - TARIFF,~~
6 ~~CLASSIFICATION - OR - REGULATION)~~). (~~To the extent that~~) (a) This
7 Article is subject to any treaty or statute of the United States(~~(T)~~)
8 or regulatory statute of this state (~~or tariff, classification or~~
9 ~~regulation filed or issued pursuant thereto~~) to the extent the treaty,
10 statute, or regulatory statute is applicable(~~(T, the provisions of this~~
11 ~~Article are subject thereto)~~).

12 (b) This Article does not modify or repeal any law prescribing the
13 form or content of a document of title or the services or facilities to
14 be afforded by a bailee, or otherwise regulating a bailee's business in
15 respects not specifically treated in this Article. However, violation
16 of such a law does not affect the status of a document of title that
17 otherwise is within the definition of a document of title.

18 (c) This act modifies, limits, and supersedes the federal
19 electronic signatures in global and national commerce act (15 U.S.C.
20 Sec. 7001, et seq.) but does not modify, limit, or supersede section
21 101(c) of that act (15 U.S.C. Sec. 7001(c)) or authorize electronic
22 delivery of any of the notices described in section 103(b) of that act
23 (15 U.S.C. Sec. 7003(b)).

24 (d) A person in its capacity as an electronic data storage provider
25 or an electronic data transmitter is not subject to this Article.

26 **Sec. 204.** RCW 62A.7-104 and 1965 ex.s. c 157 s 7-104 are each
27 amended to read as follows:

28 NEGOTIABLE AND NONNEGOTIABLE (~~(WAREHOUSE RECEIPT, BILL OF LADING OR~~
29 ~~OTHER)) DOCUMENT OF TITLE. (~~(1) A warehouse receipt, bill of lading~~
30 ~~or other document of title is negotiable)~~)~~

31 (a) Except as otherwise provided in subsection (c) of this section,
32 a document of title is negotiable if by its terms the goods are to be
33 delivered to bearer or to the order of a named person(~~(; or~~

34 ~~(b) where recognized in overseas trade, if it runs to a named~~
35 ~~person or assigns.~~

36 ~~(2) Any other document)).~~

1 (b) A document of title other than one described in subsection (a)
2 of this section is nonnegotiable. A bill of lading ((in which it is
3 stated)) that states that the goods are consigned to a named person is
4 not made negotiable by a provision that the goods are to be delivered
5 only against ((a written)) an order in a record signed by the same or
6 another named person.

7 (c) A document of title is nonnegotiable if, at the time it is
8 issued, the document has a conspicuous legend, however expressed, that
9 it is nonnegotiable.

10 **Sec. 205.** RCW 62A.7-105 and 1965 ex.s. c 157 s 7-105 are each
11 amended to read as follows:

12 ~~((CONSTRUCTION — AGAINST — NEGATIVE — IMPLICATION.))~~ REISSUANCE IN
13 ALTERNATIVE MEDIUM. ((The omission from either Part 2 or Part 3 of
14 this Article of a provision corresponding to a provision made in the
15 other Part does not imply that a corresponding rule of law is not
16 applicable.)) (a) Upon request of a person entitled under an electronic
17 document of title, the issuer of the electronic document may issue a
18 tangible document of title as a substitute for the electronic document
19 if:

20 (1) The person entitled under the electronic document surrenders
21 control of the document to the issuer; and

22 (2) The tangible document when issued contains a statement that it
23 is issued in substitution for the electronic document.

24 (b) Upon issuance of a tangible document of title in substitution
25 for an electronic document of title in accordance with subsection (a)
26 of this section:

27 (1) The electronic document ceases to have any effect or validity;
28 and

29 (2) The person that procured issuance of the tangible document
30 warrants to all subsequent persons entitled under the tangible document
31 that the warrantor was a person entitled under the electronic document
32 when the warrantor surrendered control of the electronic document to
33 the issuer.

34 (c) Upon request of a person entitled under a tangible document of
35 title, the issuer of the tangible document may issue an electronic
36 document of title as a substitute for the tangible document if:

1 (1) The person entitled under the tangible document surrenders
2 possession of the document to the issuer; and

3 (2) The electronic document when issued contains a statement that
4 it is issued in substitution for the tangible document.

5 (d) Upon issuance of an electronic document of title in
6 substitution for a tangible document of title in accordance with
7 subsection (c) of this section:

8 (1) The tangible document ceases to have any effect or validity;
9 and

10 (2) The person that procured issuance of the electronic document
11 warrants to all subsequent persons entitled under the electronic
12 document that the warrantor was a person entitled under the tangible
13 document when the warrantor surrendered possession of the tangible
14 document to the issuer.

15 NEW SECTION. Sec. 206. A new section is added to chapter 62A.7
16 RCW, to be codified as RCW 62A.7-106, to read as follows:

17 CONTROL OF ELECTRONIC DOCUMENT OF TITLE. (a) A person has control
18 of an electronic document of title if a system employed for evidencing
19 the transfer of interests in the electronic document reliably
20 establishes that person as the person to which the electronic document
21 was issued or transferred.

22 (b) A system satisfies subsection (a) of this section, and a person
23 is deemed to have control of an electronic document of title, if the
24 document is created, stored, and assigned in such a manner that:

25 (1) A single authoritative copy of the document exists which is
26 unique, identifiable, and, except as otherwise provided in (4), (5),
27 and (6) of this subsection, unalterable;

28 (2) The authoritative copy identifies the person asserting control
29 as:

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

31 (B) If the authoritative copy indicates that the document has been
32 transferred, the person to which the document was most recently
33 transferred;

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

36 (4) Copies or amendments that add or change an identified assignee

1 of the authoritative copy can be made only with the consent of the
2 person asserting control;

3 (5) Each copy of the authoritative copy and any copy of a copy is
4 readily identifiable as a copy that is not the authoritative copy; and

5 (6) Any amendment of the authoritative copy is readily identifiable
6 as authorized or unauthorized.

7 **PART III**
8 **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 7**
9 **WAREHOUSE RECEIPTS: SPECIAL PROVISIONS**

10 **Sec. 301.** RCW 62A.7-201 and 2011 c 336 s 826 are each amended to
11 read as follows:

12 ((WHO)) PERSON THAT MAY ISSUE A WAREHOUSE RECEIPT; STORAGE UNDER
13 ((GOVERNMENT)) BOND. ((+1)) (a) A warehouse receipt may be issued by
14 any warehouse ((operator)).

15 ((+2)-where)) (b) If goods, including distilled spirits and
16 agricultural commodities, are stored under a statute requiring a bond
17 against withdrawal or a license for the issuance of receipts in the
18 nature of warehouse receipts, a receipt issued for the goods ((has-like
19 effect-as)) is deemed to be a warehouse receipt even ((though)) if
20 issued by a person ((who)) that is the owner of the goods and is not a
21 warehouse ((operator)).

22 **Sec. 302.** RCW 62A.7-202 and 2011 c 336 s 827 are each amended to
23 read as follows:

24 FORM OF WAREHOUSE RECEIPT; ((ESSENTIAL-TERMS;-OPTIONAL-TERMS))
25 EFFECT OF OMISSION. ((+1)) (a) A warehouse receipt need not be in any
26 particular form.

27 ((+2)) (b) Unless a warehouse receipt ((embodies-within-its
28 written,-printed,-or-electronic-terms)) provides for each of the
29 following, the warehouse ((operator)) is liable for damages caused ((by
30 the-omission)) to a person injured ((thereby)) by its omission:

31 ((+a)) (1) A statement of the location of the warehouse facility
32 where the goods are stored;

33 ((+b)) (2) The date of issue of the receipt;

34 ((+c)) (3) The ((consecutive-number)) unique identification code
35 of the receipt;

1 ~~((d))~~ (4) A statement whether the goods received will be
2 delivered to the bearer, to a ~~((specified))~~ named person, or to a
3 ~~((specified))~~ named person or ~~((his or her))~~ its order;

4 ~~((e))~~ (5) The rate of storage and handling charges, ~~((except that~~
5 ~~where))~~ unless goods are stored under a field warehousing arrangement,
6 in which case a statement of that fact is sufficient on a nonnegotiable
7 receipt;

8 ~~((f))~~ (6) A description of the goods or ~~((of))~~ the packages
9 containing them;

10 ~~((g))~~ (7) The signature of the warehouse ~~((operator, which may be~~
11 ~~made by his or her authorized))~~ or its agent;

12 ~~((h))~~ (8) If the receipt is issued for goods ~~((of which the~~
13 ~~warehouse operator is owner))~~ that the warehouse owns, either solely
14 ~~((or))~~, jointly, or in common with others, a statement of the fact of
15 ~~((such))~~ that ownership; and

16 ~~((i))~~ (9) A statement of the amount of advances made and of
17 liabilities incurred for which the warehouse ~~((operator))~~ claims a lien
18 or security interest ~~((RCW 62A.7-209). If))~~, unless the precise
19 amount of ~~((such))~~ advances made or ~~((of such))~~ liabilities incurred
20 ~~((is))~~, at the time of the issue of the receipt, is unknown to the
21 warehouse ~~((operator))~~ or to ~~((his or her))~~ its agent ~~((who issues~~
22 ~~it,))~~ that issued the receipt, in which case a statement of the fact
23 that advances have been made or liabilities incurred and the purpose
24 ~~((thereof))~~ of the advances or liabilities is sufficient.

25 ~~((j))~~ (c) A warehouse ~~((operator))~~ may insert in ~~((his or her))~~
26 its receipt any ~~((other))~~ terms ~~((which))~~ that are not contrary to the
27 provisions of this title and do not impair ~~((his or her))~~ its
28 obligation of delivery ~~((+))~~ under RCW 62A.7-403 ~~((+ or his or her))~~ or
29 its duty of care ~~((+))~~ under RCW 62A.7-204 ~~((+))~~. Any contrary
30 provision ~~((s shall be))~~ is ineffective.

31 **Sec. 303.** RCW 62A.7-203 and 1965 ex.s. c 157 s 7-203 are each
32 amended to read as follows:

33 LIABILITY FOR NONRECEIPT OR MISDESCRIPTION. A party to or
34 purchaser for value in good faith of a document of title, other than a
35 bill of lading ~~((relying in either case))~~, that relies upon the
36 description ~~((therein))~~ of the goods in the document may recover from

1 the issuer damages caused by the nonreceipt or misdescription of the
2 goods, except to the extent that:

3 (1) The document conspicuously indicates that the issuer does not
4 know whether ~~((any))~~ all or part ~~((or all))~~ of the goods in fact were
5 received or conform to the description, such as ~~((where))~~ a case in
6 which the description is in terms of marks or labels or kind, quantity,
7 or condition, or the receipt or description is qualified by "contents,
8 condition, and quality unknown," "said to contain," or ~~((the-like))~~
9 words of similar import, if ~~((such))~~ the indication ~~((be))~~ is
10 true~~((r))~~; or

11 (2) The party or purchaser otherwise has notice of the nonreceipt
12 or misdescription.

13 **Sec. 304.** RCW 62A.7-204 and 2011 c 336 s 828 are each amended to
14 read as follows:

15 DUTY OF CARE; CONTRACTUAL LIMITATION OF WAREHOUSE'S ~~((OPERATOR'S))~~
16 LIABILITY. ~~((+1))~~ (a) A warehouse ~~((operator))~~ is liable for damages
17 for loss of or injury to the goods caused by ~~((his or her))~~ its failure
18 to exercise ~~((such))~~ care ~~((in))~~ with regard to ~~((them as))~~ the goods
19 that a reasonably careful person would exercise under ~~((like))~~ similar
20 circumstances ~~((but))~~. Unless otherwise agreed ~~((he or she))~~, the
21 warehouse is not liable for damages ~~((which))~~ that could not have been
22 avoided by the exercise of ~~((such))~~ that care.

23 ~~((+2))~~ (b) Damages may be limited by a term in the warehouse
24 receipt or storage agreement limiting the amount of liability in case
25 of loss or damage ~~((, and setting forth a specific liability per article~~
26 ~~or item, or value per unit of weight,))~~ beyond which the warehouse
27 ~~((operator shall not be))~~ is not liable ~~((; provided, however, that such~~
28 ~~liability may on written))~~. Such a limitation is not effective with
29 respect to the warehouse's liability for conversion to its own use. On
30 request of the bailor in a record at the time of signing ~~((such))~~ the
31 storage agreement or within a reasonable time after receipt of the
32 warehouse receipt, the warehouse's liability may be increased on part
33 or all of the goods ~~((thereunder, in which))~~ covered by the storage
34 agreement or the warehouse receipt. In this event, increased rates may
35 be charged based on ~~((such))~~ an increased valuation ~~((, but that no such~~
36 ~~increase shall be permitted contrary to a lawful limitation of~~

1 ~~liability contained in the warehouse operator's tariff, if any. No~~
2 ~~such limitation is effective with respect to the warehouse operator's~~
3 ~~liability for conversion to his or her own use))~~ of the goods.

4 ((+3)) (c) Reasonable provisions as to the time and manner of
5 presenting claims and ((~~instituting~~)) commencing actions based on the
6 bailment may be included in the warehouse receipt or ((~~tariff~~)) storage
7 agreement.

8 ((+4)) (d) This section does not ((~~impair or repeal the duties of~~
9 ~~care or liabilities or penalties for breach thereof as provided in~~))
10 modify or repeal the provisions of chapters 22.09 and 22.32 RCW.

11 **Sec. 305.** RCW 62A.7-205 and 2011 c 336 s 829 are each amended to
12 read as follows:

13 TITLE UNDER WAREHOUSE RECEIPT DEFEATED IN CERTAIN CASES. A buyer
14 in ((~~the~~)) ordinary course of business of fungible goods sold and
15 delivered by a warehouse ((~~operator who~~)) that is also in the business
16 of buying and selling such goods takes the goods free of any claim
17 under a warehouse receipt even ((~~though it~~)) if the receipt is
18 negotiable and has been duly negotiated.

19 **Sec. 306.** RCW 62A.7-206 and 2011 c 336 s 830 are each amended to
20 read as follows:

21 TERMINATION OF STORAGE AT ((~~WAREHOUSE OPERATOR'S~~)) WAREHOUSE'S
22 OPTION. ((+1)) (a) A warehouse ((~~operator may on notifying~~)), by
23 giving notice to the person on whose account the goods are held and any
24 other person known to claim an interest in the goods, may require
25 payment of any charges and removal of the goods from the warehouse at
26 the termination of the period of storage fixed by the document((~~r~~)) of
27 title or, if ((~~no~~)) a period is not fixed, within a stated period not
28 less than thirty days after the ((~~notification~~)) warehouse gives
29 notice. If the goods are not removed before the date specified in the
30 ((~~notification~~)) notice, the warehouse ((~~operator~~)) may sell them ((~~in~~
31 ~~accordance with the provisions of the section on enforcement of a~~
32 ~~warehouse operator's lien~~)) pursuant to RCW 62A.7-210((+)).

33 ((+2)) (b) If a warehouse ((~~operator~~)) in good faith believes that
34 ((~~the~~)) goods are about to deteriorate or decline in value to less than
35 the amount of ((~~his or her~~)) its lien within the time ((~~prescribed~~))
36 provided in subsection ((+1)) (a) of this section ((~~for notification,~~

1 advertisement, and sale)) and RCW 62A.7-210, the warehouse ((operator))
2 may specify in the ((notification)) notice given under subsection (a)
3 of this section any reasonable shorter time for removal of the goods
4 and ((in case)), if the goods are not removed, may sell them at public
5 sale held not less than one week after a single advertisement or
6 posting.

7 ((+3)) (c) If, as a result of a quality or condition of the goods
8 of which the warehouse ((operator had no)) did not have notice at the
9 time of deposit, the goods are a hazard to other property ((or to)),
10 the warehouse facilities, or ((to)) other persons, the warehouse
11 ((operator)) may sell the goods at public or private sale without
12 advertisement or posting on reasonable notification to all persons
13 known to claim an interest in the goods. If the warehouse
14 ((operator)), after a reasonable effort, is unable to sell the goods
15 ((he or she)), it may dispose of them in any lawful manner and
16 ((shall)) does not incur ((no)) liability by reason of ((such)) that
17 disposition.

18 ((+4)) (d) The warehouse ((operator must)) shall deliver the goods
19 to any person entitled to them under this Article upon due demand made
20 at any time ((prior to)) before sale or other disposition under this
21 section.

22 ((+5)) (e) The warehouse ((operator)) may satisfy ((his or her))
23 its lien from the proceeds of any sale or disposition under this
24 section but ((must)) shall hold the balance for delivery on the demand
25 of any person to ((whom he or she)) which the warehouse would have been
26 bound to deliver the goods.

27 **Sec. 307.** RCW 62A.7-207 and 2011 c 336 s 831 are each amended to
28 read as follows:

29 GOODS MUST BE KEPT SEPARATE; FUNGIBLE GOODS. ((+1)) (a) Unless
30 the warehouse receipt provides otherwise ((provides)), a warehouse
31 ((operator must)) shall keep separate the goods covered by each receipt
32 so as to permit at all times identification and delivery of those goods
33 ((except that)). However, different lots of fungible goods may be
34 commingled.

35 ((+2)) (b) If different lots of fungible goods ((so)) are
36 commingled, the goods are owned in common by the persons entitled
37 thereto and the warehouse ((operator)) is severally liable to each

1 owner for that owner's share. ((Where)) If, because of over-issue, a
2 mass of fungible goods is insufficient to meet all the receipts
3 ((which)) the warehouse ((operator)) has issued against it, the persons
4 entitled include all holders to ((whom)) which overissued receipts have
5 been duly negotiated.

6 **Sec. 308.** RCW 62A.7-208 and 1965 ex.s. c 157 s 7-208 are each
7 amended to read as follows:

8 ALTERED WAREHOUSE RECEIPTS. ((Where)) If a blank in a negotiable
9 tangible warehouse receipt has been filled in without authority, a
10 good-faith purchaser for value and without notice of the ((want)) lack
11 of authority may treat the insertion as authorized. Any other
12 unauthorized alteration leaves any tangible or electronic warehouse
13 receipt enforceable against the issuer according to its original tenor.

14 **Sec. 309.** RCW 62A.7-209 and 2011 c 336 s 832 are each amended to
15 read as follows:

16 LIEN OF WAREHOUSE ((OPERATOR)). ((+)) (a) A warehouse
17 ((operator)) has a lien against the bailor on the goods covered by a
18 warehouse receipt or storage agreement or on the proceeds thereof in
19 ((his or her)) its possession for charges for storage or transportation
20 ((+)), including demurrage and terminal charges((+)), insurance, labor,
21 or other charges, present or future, in relation to the goods, and for
22 expenses necessary for preservation of the goods or reasonably incurred
23 in their sale pursuant to law. If the person on whose account the
24 goods are held is liable for ((like)) similar charges or expenses in
25 relation to other goods whenever deposited and it is stated in the
26 warehouse receipt or storage agreement that a lien is claimed for
27 charges and expenses in relation to other goods, the warehouse
28 ((operator)) also has a lien against ((him or her)) the goods covered
29 by the warehouse receipt or storage agreement or on the proceeds
30 thereof in its possession for ((such)) those charges and expenses,
31 whether or not the other goods have been delivered by the warehouse
32 ((operator)). ((But)) However, as against a person to ((whom)) which
33 a negotiable warehouse receipt is duly negotiated, a ((warehouse
34 operator's)) warehouse's lien is limited to charges in an amount or at
35 a rate specified ((en)) in the warehouse receipt or, if no charges are
36 so specified ((then)), to a reasonable charge for storage of the

1 specific goods covered by the receipt subsequent to the date of the
2 receipt. A ~~((warehouse operator's))~~ warehouse's lien as provided in
3 this chapter takes priority over all other liens and perfected or
4 unperfected security interests.

5 ~~((+2))~~ (b) The warehouse ~~((operator))~~ may also reserve a security
6 interest against the bailor for ~~((a))~~ the maximum amount specified on
7 the receipt for charges other than those specified in subsection
8 ~~((+1))~~ (a) of this section, such as for money advanced and interest.
9 ~~((Such-a))~~ The security interest is governed by ~~((the Article on~~
10 ~~Secured Transactions (Article 9))~~ Article 9A of this title.

11 ~~((+3))~~ (c) A ~~((warehouse operator's))~~ warehouse's lien for charges
12 and expenses under subsection ~~((+1))~~ (a) of this section or a security
13 interest under subsection ~~((+2))~~ (b) of this section is also effective
14 against any person ~~((who))~~ that so entrusted the bailor with possession
15 of the goods that a pledge of them by ~~((him or her))~~ the bailor to a
16 good-faith purchaser for value would have been valid ~~((but is not~~
17 ~~effective against a person as to whom the document confers no right in~~
18 ~~the goods covered by it under RCW 62A.7-503))~~.

19 ~~((+4))~~ ~~A warehouse operator loses his or her lien on any goods which~~
20 ~~he or she voluntarily delivers or which he or she))~~ However, the lien
21 or security interest is not effective against a person that before
22 issuance of a document of title had a legal interest or a perfected
23 security interest in the goods and that did not:

24 (1) Deliver or entrust the goods or any document of title covering
25 the goods to the bailor or the bailor's nominee with:

26 (A) Actual or apparent authority to ship, store, or sell;

27 (B) Power to obtain delivery under RCW 62A.7-403; or

28 (C) Power of disposition under RCW 62A.2-403, 62A.2A-304(2),
29 62A.2A-305(2), 62A.9A-320, or 62A.9A-321(c) or other statute or rule of
30 law; or

31 (2) Acquiesce in the procurement by the bailor or its nominee of
32 any document.

33 (d) A warehouse's lien on household goods for charges and expenses
34 in relation to the goods under subsection (a) of this section is also
35 effective against all persons if the depositor was the legal possessor
36 of the goods at the time of deposit. In this subsection, "household
37 goods" means furniture, furnishings, or personal effects used by the
38 depositor in a dwelling.

1 (e) A warehouse loses its lien on any goods that it voluntarily
2 delivers or unjustifiably refuses to deliver.

3 **Sec. 310.** RCW 62A.7-210 and 2011 c 336 s 833 are each amended to
4 read as follows:

5 ENFORCEMENT OF WAREHOUSE ~~((OPERATOR'S))~~ LIEN. ~~((1))~~ (a) Except
6 as otherwise provided in subsection ~~((2))~~ (b) of this section, a
7 ~~((warehouse operator's))~~ warehouse's lien may be enforced by public or
8 private sale of the goods, in ~~((bloë))~~ bulk or in ~~((parcels))~~ packages,
9 at any time or place and on any terms ~~((which))~~ that are commercially
10 reasonable, after notifying all persons known to claim an interest in
11 the goods. ~~((Such))~~ The notification must include a statement of the
12 amount due, the nature of the proposed sale, and the time and place of
13 any public sale. The fact that a better price could have been obtained
14 by a sale at a different time or in a ~~((different))~~ method different
15 from that selected by the warehouse ~~((operator))~~ is not of itself
16 sufficient to establish that the sale was not made in a commercially
17 reasonable manner. The warehouse sells in a commercially reasonable
18 manner if the warehouse ~~((operator either))~~ sells the goods in the
19 usual manner in any recognized market therefor, ~~((or if he or she))~~
20 sells at the price current in ~~((such))~~ that market at the time of ~~((his~~
21 ~~or her))~~ the sale, or ~~((if he or she has))~~ otherwise ~~((sold))~~ sells in
22 conformity with commercially reasonable practices among dealers in the
23 type of goods sold ~~((, he or she has sold in a commercially reasonable~~
24 ~~manner))~~. A sale of more goods than apparently necessary to be offered
25 to ~~((insure))~~ ensure satisfaction of the obligation is not commercially
26 reasonable, except in cases covered by the preceding sentence.

27 ~~((2))~~ (b) A warehouse ~~((operator's))~~ may enforce its lien on
28 goods, other than goods stored by a merchant in the course of ~~((his or~~
29 ~~her))~~ its business ~~((may be enforced))~~, only ~~((as follows))~~ if the
30 following requirements are satisfied:

31 ~~((a))~~ (1) All persons known to claim an interest in the goods
32 must be notified.

33 ~~((b) The notification must be delivered in person or sent by~~
34 ~~registered or certified letter to the last known address of any person~~
35 ~~to be notified.~~

36 ~~((c))~~ (2) The notification must include an itemized statement of
37 the claim, a description of the goods subject to the lien, a demand for

1 payment within a specified time not less than ten days after receipt of
2 the notification, and a conspicuous statement that unless the claim is
3 paid within that time the goods will be advertised for sale and sold by
4 auction at a specified time and place.

5 ~~((+d))~~ (3) The sale must conform to the terms of the notification.

6 ~~((+e))~~ (4) The sale must be held at the nearest suitable place to
7 that where the goods are held or stored.

8 ~~((+f))~~ (5) After the expiration of the time given in the
9 notification, an advertisement of the sale must be published once a
10 week for two weeks consecutively in a newspaper of general circulation
11 where the sale is to be held. The advertisement must include a
12 description of the goods, the name of the person on whose account
13 ~~((they))~~ the goods are being held, and the time and place of the sale.
14 The sale must take place at least fifteen days after the first
15 publication. If there is no newspaper of general circulation where the
16 sale is to be held, the advertisement must be posted at least ten days
17 before the sale in not ~~((less))~~ fewer than six conspicuous places in
18 the neighborhood of the proposed sale.

19 ~~((+3))~~ (c) Before any sale pursuant to this section, any person
20 claiming a right in the goods may pay the amount necessary to satisfy
21 the lien and the reasonable expenses incurred ~~((under))~~ in complying
22 with this section. In that event, the goods ~~((must))~~ may not be sold,
23 but must be retained by the warehouse ~~((operator))~~ subject to the terms
24 of the receipt and this Article.

25 ~~((+4) The))~~ (d) A warehouse ~~((operator))~~ may buy at any public sale
26 held pursuant to this section.

27 ~~((+5))~~ (e) A purchaser in good faith of goods sold to enforce a
28 ~~((warehouse operator's))~~ warehouse's lien takes the goods free of any
29 rights of persons against ~~((whom))~~ which the lien was valid, despite
30 the warehouse's noncompliance ~~((by the warehouse operator))~~ with ~~((the~~
31 ~~requirements of))~~ this section.

32 ~~((+6) The))~~ (f) A warehouse ~~((operator))~~ may satisfy ~~((his or her))~~
33 its lien from the proceeds of any sale pursuant to this section but
34 must hold the balance, if any, for delivery on demand to any person to
35 ~~((whom he or she))~~ which the warehouse would have been bound to deliver
36 the goods.

37 ~~((+7))~~ (g) The rights provided by this section ~~((shall be))~~ are in

1 addition to all other rights allowed by law to a creditor against (~~his~~
2 ~~or her~~) a debtor.

3 (~~(8) Where~~) (h) If a lien is on goods stored by a merchant in the
4 course of (~~his or her~~) its business, the lien may be enforced in
5 accordance with either subsection (~~(1) or (2)~~) (a) or (b) of this
6 section.

7 (~~(9) The~~) (i) A warehouse (~~operator~~) is liable for damages
8 caused by failure to comply with the requirements for sale under this
9 section and, in case of willful violation, is liable for conversion.

10 **PART IV**
11 **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 7**
12 **BILLS OF LADING: SPECIAL PROVISIONS**

13 **Sec. 401.** RCW 62A.7-301 and 1965 ex.s. c 157 s 7-301 are each
14 amended to read as follows:

15 LIABILITY FOR NONRECEIPT OR MISDESCRIPTION; "SAID TO CONTAIN";
16 "SHIPPER'S WEIGHT, LOAD, AND COUNT"; IMPROPER HANDLING. (~~(1)~~) (a) A
17 consignee of a nonnegotiable bill (~~who~~) of lading which has given
18 value in good faith, or a holder to (~~whom~~) which a negotiable bill
19 has been duly negotiated, relying (~~in either case~~) upon the
20 description (~~therein~~) of the goods (~~(7)~~) in the bill or upon the date
21 (~~therein~~) shown in the bill, may recover from the issuer damages
22 caused by the misdating of the bill or the nonreceipt or misdescription
23 of the goods, except to the extent that the (~~document~~) bill indicates
24 that the issuer does not know whether any part or all of the goods in
25 fact were received or conform to the description, such as (~~where~~) in
26 a case in which the description is in terms of marks or labels or kind,
27 quantity, or condition or the receipt or description is qualified by
28 "contents or condition of contents of packages unknown," (~~(7)~~) "said to
29 contain," (~~(7)~~) "shipper's weight, load, and count," or (~~the like~~)
30 words of similar import, if (~~such~~) that indication (~~be~~) is true.

31 (~~(2) When~~) (b) If goods are loaded by (~~an~~) the issuer (~~who is~~
32 ~~a common carrier,~~) of a bill of lading:

33 (1) The issuer (~~must~~) shall count the packages of goods if
34 (~~package freight~~) shipped in packages and ascertain the kind and
35 quantity if shipped in bulk (~~freight. In~~); and

1 (2) Words such ~~((eases))~~ as "shipper's weight, load, and count," or
2 ~~((other))~~ words of similar import indicating that the description was
3 made by the shipper are ineffective except as to ~~((freight))~~ goods
4 concealed ~~((by))~~ in packages.

5 ~~((3-When))~~ (c) If bulk ~~((freight-is))~~ goods are loaded by a
6 shipper ~~((who))~~ that makes available to the issuer of a bill of lading
7 adequate facilities for weighing ~~((such freight, an))~~ those goods, the
8 issuer ~~((who is a common carrier must))~~ shall ascertain the kind and
9 quantity within a reasonable time after receiving the ~~((written))~~
10 shipper's request ~~((of the shipper))~~ in a record to do so. ~~((In such~~
11 ~~eases))~~ In that case, "shipper's weight" or ~~((other))~~ words of ~~((like~~
12 ~~purport))~~ similar import are ineffective.

13 ~~((4))~~ (d) The issuer ~~((may))~~ of a bill of lading, by
14 ~~((inserting))~~ including in the bill the words "shipper's weight, load,
15 and count," or ~~((other))~~ words of ~~((like purport))~~ similar import, may
16 indicate that the goods were loaded by the shipper~~((+))~~, and, if
17 ~~((such))~~ that statement ~~((be))~~ is true, the issuer ~~((shall))~~ is not
18 ~~((be))~~ liable for damages caused by the improper loading. ~~((But~~
19 ~~their))~~ However, omission of such words does not imply liability for
20 ~~((such))~~ damages caused by improper loading.

21 ~~((5-The))~~ (e) A shipper ~~((shall be deemed to have guaranteed to~~
22 ~~the))~~ guarantees to an issuer the accuracy at the time of shipment of
23 the description, marks, labels, number, kind, quantity, condition, and
24 weight, as furnished by ~~((him+))~~ the shipper, and the shipper shall
25 indemnify the issuer against damage caused by inaccuracies in ~~((such))~~
26 those particulars. ~~((The))~~ This right of ~~((the issuer to such))~~
27 indemnity ~~((shall in no way))~~ does not limit ~~((his))~~ the issuer's
28 responsibility ~~((and))~~ or liability under the contract of carriage to
29 any person other than the shipper.

30 **Sec. 402.** RCW 62A.7-302 and 1965 ex.s. c 157 s 7-302 are each
31 amended to read as follows:

32 THROUGH BILLS OF LADING AND SIMILAR DOCUMENTS OF TITLE. ~~((1))~~
33 (a) The issuer of a through bill of lading, or other document of title
34 embodying an undertaking to be performed in part by ~~((persons))~~ a
35 person acting as its agent~~((s))~~ or by ~~((connecting-carriers))~~ a
36 performing carrier, is liable to ~~((anyone))~~ any person entitled to
37 recover on the bill or other document for any breach by ~~((such other~~

1 ~~persons or by a connecting~~) the other person or the performing carrier
2 of its obligation under the bill or other document (~~but~~). However,
3 to the extent that the bill or other document covers an undertaking to
4 be performed overseas or in territory not contiguous to the continental
5 United States or an undertaking including matters other than
6 transportation, this liability for breach by the other person or the
7 performing carrier may be varied by agreement of the parties.

8 (~~(2) Where~~) (b) If goods covered by a through bill of lading or
9 other document of title embodying an undertaking to be performed in
10 part by (~~persons~~) a person other than the issuer are received by
11 (~~any such~~) that person, (~~he~~) the person is subject, with respect to
12 (~~his~~) its own performance while the goods are in (~~his~~) its
13 possession, to the obligation of the issuer. (~~His~~) The person's
14 obligation is discharged by delivery of the goods to another (~~such~~)
15 person pursuant to the bill or other document(~~(7)~~) and does not include
16 liability for breach by any other (~~such~~) person(~~s~~) or by the
17 issuer.

18 (~~(3)~~) (c) The issuer of (~~such~~) a through bill of lading or
19 other document (~~shall be~~) of title described in subsection (a) of
20 this section is entitled to recover from the (~~connecting~~) performing
21 carrier, or (~~such~~) other person in possession of the goods when the
22 breach of the obligation under the bill or other document
23 occurred(~~(7)~~):

24 (1) The amount it may be required to pay to (~~anyone~~) any person
25 entitled to recover on the bill or other document (~~therefor~~) for the
26 breach, as may be evidenced by any receipt, judgment, or transcript
27 (~~thereof, and~~) of judgment; and

28 (2) The amount of any expense reasonably incurred by (~~it~~) the
29 issuer in defending any action (~~brought~~) commenced by (~~anyone~~) any
30 person entitled to recover on the bill or other document (~~therefor~~)
31 for the breach.

32 **Sec. 403.** RCW 62A.7-303 and 1965 ex.s. c 157 s 7-303 are each
33 amended to read as follows:

34 DIVERSION; RECONSIGNMENT; CHANGE OF INSTRUCTIONS. (~~(1)~~) (a)
35 Unless the bill of lading otherwise provides, (~~the~~) a carrier may
36 deliver the goods to a person or destination other than that stated in

1 the bill or may otherwise dispose of the goods, without liability for
2 misdelivery, on instructions from:

3 ~~((a))~~ (1) The holder of a negotiable bill; ~~((or~~
4 ~~(b))~~ (2) The consignor on a nonnegotiable bill
5 ~~((notwithstanding))~~, even if the consignee has given contrary
6 instructions ~~((from the consignee))~~; ~~((or~~

7 ~~(c))~~ (3) The consignee on a nonnegotiable bill in the absence of
8 contrary instructions from the consignor, if the goods have arrived at
9 the billed destination or if the consignee is in possession of the
10 tangible bill or in control of the electronic bill; or

11 ~~((d))~~ (4) The consignee on a nonnegotiable bill, if ((he)) the
12 consignee is entitled as against the consignor to dispose of ((them))
13 the goods.

14 ~~((2))~~ (b) Unless ~~((such))~~ instructions described in subsection
15 (a) of this section are ~~((noted on))~~ included in a negotiable bill of
16 lading, a person to ~~((whom))~~ which the bill is duly negotiated ~~((can))~~
17 may hold the bailee according to the original terms.

18 **Sec. 404.** RCW 62A.7-304 and 1965 ex.s. c 157 s 7-304 are each
19 amended to read as follows:

20 TANGIBLE BILLS OF LADING IN A SET. ~~((1))~~ (a) Except ~~((where))~~ as
21 customary in ((overseas)) international transportation, a tangible bill
22 of lading ((must)) may not be issued in a set of parts. The issuer is
23 liable for damages caused by violation of this subsection.

24 ~~((2)-where))~~ (b) If a tangible bill of lading is lawfully
25 ~~((drawn))~~ issued in a set of parts, each of which ~~((is-numbered))~~
26 contains an identification code and is expressed to be valid only if
27 the goods have not been delivered against any other part, the whole of
28 the parts constitutes one bill.

29 ~~((3)-where))~~ (c) If a tangible negotiable bill of lading is
30 lawfully issued in a set of parts and different parts are negotiated to
31 different persons, the title of the holder to ((whom)) which the first
32 due negotiation is made prevails as to both the document of title and
33 the goods even ((though)) if any later holder may have received the
34 goods from the carrier in good faith and discharged the carrier's
35 obligation by ((surrender of his)) surrendering its part.

36 ~~((4)-Any))~~ (d) A person ((who)) that negotiates or transfers a

1 single part of a tangible bill of lading (~~(drawn)~~) issued in a set is
2 liable to holders of that part as if it were the whole set.

3 ~~((+5))~~ (e) The bailee (~~(is—obliged—to)~~) shall deliver in
4 accordance with (~~(Part 4 of this Article)~~) RCW 62A.7-401 through 62A.7-
5 404 against the first presented part of a tangible bill of lading
6 lawfully (~~(drawn)~~) issued in a set. (~~(Such)~~) Delivery in this manner
7 discharges the bailee's obligation on the whole bill.

8 **Sec. 405.** RCW 62A.7-305 and 1965 ex.s. c 157 s 7-305 are each
9 amended to read as follows:

10 DESTINATION BILLS. (~~(+1)~~) (a) Instead of issuing a bill of lading
11 to the consignor at the place of shipment, a carrier (~~(may)~~), at the
12 request of the consignor, may procure the bill to be issued at
13 destination or at any other place designated in the request.

14 (~~(+2)~~) (b) Upon request of (~~(anyone)~~) any person entitled as
15 against (~~(the)~~) a carrier to control the goods while in transit and on
16 surrender of possession or control of any outstanding bill of lading or
17 other receipt covering (~~(such)~~) the goods, the issuer, subject to RCW
18 62A.7-105, may procure a substitute bill to be issued at any place
19 designated in the request.

20 **Sec. 406.** RCW 62A.7-307 and 1965 ex.s. c 157 s 7-307 are each
21 amended to read as follows:

22 LIEN OF CARRIER. (~~(+1)~~) (a) A carrier has a lien on the goods
23 covered by a bill of lading or on the proceeds thereof in its
24 possession for charges (~~(subsequent to)~~) after the date of (~~(its)~~) the
25 carrier's receipt of the goods for storage or transportation (~~(+)~~),
26 including demurrage and terminal charges(~~(+)~~), and for expenses
27 necessary for preservation of the goods incident to their
28 transportation or reasonably incurred in their sale pursuant to law.
29 (~~(But)~~) However, against a purchaser for value of a negotiable bill of
30 lading, a carrier's lien is limited to charges stated in the bill or
31 the applicable tariffs(~~(-)~~) or, if no charges are stated (~~(then to)~~),
32 a reasonable charge.

33 (~~(+2)~~) (b) A lien for charges and expenses under subsection
34 (~~(+1)~~) (a) of this section on goods (~~(which)~~) that the carrier was
35 required by law to receive for transportation is effective against the
36 consignor or any person entitled to the goods unless the carrier had

1 notice that the consignor lacked authority to subject the goods to
2 ~~((such))~~ those charges and expenses. Any other lien under subsection
3 ~~((1))~~ (a) of this section is effective against the consignor and any
4 person ~~((who))~~ that permitted the bailor to have control or possession
5 of the goods unless the carrier had notice that the bailor lacked
6 ~~((such))~~ authority.

7 ~~((3))~~ (c) A carrier loses ~~((his))~~ its lien on any goods ~~((which~~
8 ~~he))~~ that it voluntarily delivers or ~~((which he))~~ unjustifiably refuses
9 to deliver.

10 **Sec. 407.** RCW 62A.7-308 and 1965 ex.s. c 157 s 7-308 are each
11 amended to read as follows:

12 ENFORCEMENT OF CARRIER'S LIEN. ~~((1))~~ (a) A carrier's lien on
13 goods may be enforced by public or private sale of the goods, in
14 ~~((b1e))~~ bulk or in ~~((parcels))~~ packages, at any time or place and on
15 any terms ~~((which))~~ that are commercially reasonable, after notifying
16 all persons known to claim an interest in the goods. ~~((Such))~~ The
17 notification must include a statement of the amount due, the nature of
18 the proposed sale, and the time and place of any public sale. The fact
19 that a better price could have been obtained by a sale at a different
20 time or in a method different ~~((method))~~ from that selected by the
21 carrier is not of itself sufficient to establish that the sale was not
22 made in a commercially reasonable manner. The carrier sells goods in
23 a commercially reasonable manner if the carrier ~~((either))~~ sells the
24 goods in the usual manner in any recognized market therefor ~~((or if~~
25 ~~he))~~, sells at the price current in ~~((such))~~ that market at the time of
26 ~~((his))~~ the sale, or ~~((if he has))~~ otherwise ~~((sold))~~ sells in
27 conformity with commercially reasonable practices among dealers in the
28 type of goods sold ~~((he has sold in a commercially reasonable manner))~~.
29 A sale of more goods than apparently necessary to be offered to ensure
30 satisfaction of the obligation is not commercially reasonable, except
31 in cases covered by the preceding sentence.

32 ~~((2))~~ (b) Before any sale pursuant to this section, any person
33 claiming a right in the goods may pay the amount necessary to satisfy
34 the lien and the reasonable expenses incurred ~~((under))~~ in complying
35 with this section. In that event, the goods ~~((must))~~ may not be
36 sold~~((r))~~ but must be retained by the carrier, subject to the terms of
37 the bill of lading and this Article.

1 ~~((+3))~~ (c) A carrier may buy at any public sale pursuant to
2 this section.

3 ~~((+4))~~ (d) A purchaser in good faith of goods sold to enforce a
4 carrier's lien takes the goods free of any rights of persons against
5 ~~((whom))~~ which the lien was valid, despite the carrier's noncompliance
6 ~~((by the carrier))~~ with ~~((the requirements of))~~ this section.

7 ~~((+5))~~ (e) A carrier may satisfy ~~((his))~~ its lien from the
8 proceeds of any sale pursuant to this section but ~~((must))~~ shall hold
9 the balance, if any, for delivery on demand to any person to ~~((whom~~
10 ~~he))~~ which the carrier would have been bound to deliver the goods.

11 ~~((+6))~~ (f) The rights provided by this section ~~((shall be))~~ are in
12 addition to all other rights allowed by law to a creditor against
13 ~~((his))~~ a debtor.

14 ~~((+7))~~ (g) A carrier's lien may be enforced ~~((in accordance with))~~
15 pursuant to either subsection ~~((+1))~~ (a) of this section or the
16 procedure set forth in ~~((subsection (2) of))~~ RCW 62A.7-210(b).

17 ~~((+8))~~ (h) A carrier is liable for damages caused by failure
18 to comply with the requirements for sale under this section and, in
19 case of willful violation, is liable for conversion.

20 **Sec. 408.** RCW 62A.7-309 and 2009 c 549 s 1017 are each amended to
21 read as follows:

22 DUTY OF CARE; CONTRACTUAL LIMITATION OF CARRIER'S LIABILITY. Save
23 as otherwise provided in RCW 81.29.010 and 81.29.020:

24 ~~((+1))~~ (a) A carrier ~~((who))~~ that issues a bill of lading, whether
25 negotiable or nonnegotiable, ~~((must))~~ shall exercise the degree of care
26 in relation to the goods which a reasonably careful person would
27 exercise under ~~((like))~~ similar circumstances. This subsection does
28 not affect any statute, regulation, or rule of law that imposes
29 liability upon a common carrier for damages not caused by its
30 negligence.

31 ~~((+2))~~ (b) Damages may be limited by a ~~((provision))~~ term in the
32 bill of lading or in a transportation agreement that the carrier's
33 liability ~~((shall))~~ may not exceed a value stated in the ~~((document))~~
34 bill of lading or transportation agreement if the carrier's rates are
35 dependent upon value and the consignor ~~((by the carrier's tariff))~~ is
36 afforded an opportunity to declare a higher value ~~((or a value as~~
37 ~~lawfully provided in the tariff, or where no tariff))~~ and the consignor

1 is ~~((filed—he—or—she—))~~ advised of ~~((such))~~ the
2 opportunity~~((;—but—no))~~. However, such a limitation is not effective
3 with respect to the carrier's liability for conversion to its own use.

4 ~~((+3))~~ (c) Reasonable provisions as to the time and manner of
5 presenting claims and ~~((instituting))~~ commencing actions based on the
6 shipment may be included in a bill of lading or ~~((tariff))~~ a
7 transportation agreement.

8 **PART V**

9 **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 7**

10 **WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL OBLIGATIONS**

11 **Sec. 501.** RCW 62A.7-401 and 2011 c 336 s 834 are each amended to
12 read as follows:

13 IRREGULARITIES IN ISSUE OF RECEIPT OR BILL OR CONDUCT OF ISSUER.
14 The obligations imposed by this Article on an issuer apply to a
15 document of title ~~((regardless of the fact that))~~ even if:

16 ~~((+a))~~ (1) The document ~~((may))~~ does not comply with the
17 requirements of this Article or of any other ~~((law))~~ statute, rule, or
18 regulation regarding its ~~((issue))~~ issuance, form, or content; ~~((or~~

19 ~~+b))~~ (2) The issuer ~~((may—have))~~ violated laws regulating the
20 conduct of ~~((his—or—her))~~ its business; ~~((or~~

21 ~~+c))~~ (3) The goods covered by the document were owned by the
22 bailee ~~((at the time))~~ when the document was issued; or

23 ~~((+d))~~ (4) The person issuing the document ~~((does not come within~~
24 ~~the definition of warehouse operator if it))~~ is not a warehouse but the
25 document purports to be a warehouse receipt.

26 **Sec. 502.** RCW 62A.7-402 and 1965 ex.s. c 157 s 7-402 are each
27 amended to read as follows:

28 DUPLICATE ~~((RECEIPT—OR—BILL))~~ DOCUMENT OF TITLE; OVERISSUANCE.
29 ~~((Neither))~~ A duplicate ~~((nor))~~ or any other document of title
30 purporting to cover goods already represented by an outstanding
31 document of the same issuer does not confer~~((s))~~ any right in the
32 goods, except as provided in the case of tangible bills of lading in a
33 set of parts, overissue of documents for fungible goods ~~((and))~~,
34 substitutes for lost, stolen, or destroyed documents, or substitute
35 documents issued pursuant to RCW 62A.7-105. ~~((But))~~ The issuer is

1 liable for damages caused by ~~((his))~~ its overissue or failure to
2 identify a duplicate document ~~((as-such))~~ by a conspicuous notation
3 ~~((on-its-face))~~.

4 **Sec. 503.** RCW 62A.7-403 and 2011 c 336 s 835 are each amended to
5 read as follows:

6 OBLIGATION OF ~~((WAREHOUSE-OPERATOR-OR-CARRIER))~~ BAILEE TO DELIVER;
7 EXCUSE. ~~((+1-The))~~ (a) A bailee ~~((must))~~ shall deliver the goods to
8 a person entitled under ~~((the))~~ a document ~~((who))~~ of title if the
9 person complies with subsections ~~((+2-and-+3))~~ (b) and (c) of this
10 section, unless and to the extent that the bailee establishes any of
11 the following:

12 ~~((+a))~~ (1) Delivery of the goods to a person whose receipt was
13 rightful as against the claimant;

14 ~~((+b))~~ (2) Damage to or delay, loss, or destruction of the goods
15 for which the bailee is not liable;

16 ~~((+c))~~ (3) Previous sale or other disposition of the goods in
17 lawful enforcement of a lien or on ~~((warehouse-operator's))~~ a
18 warehouse's lawful termination of storage;

19 ~~((+d))~~ (4) The exercise by a seller of ~~((his-or-her))~~ its right to
20 stop delivery pursuant to ~~((the-provisions-of-the-Article-on-Sales~~
21 ~~+)RCW 62A.2-705((+))~~ or by a lessor of its right to stop delivery
22 pursuant to RCW 62A.2A-526;

23 ~~((+e))~~ (5) A diversion, reconsignment, or other disposition
24 pursuant to ~~((the-provisions-of-this-Article-+))RCW 62A.7-303((+)-or~~
25 ~~tariff-regulating-such-right))~~;

26 ~~((+f))~~ (6) Release, satisfaction, or any other ~~((fact-affording~~
27 ~~a))~~ personal defense against the claimant; or

28 ~~((+g))~~ (7) Any other lawful excuse.

29 ~~((+2))~~ (b) A person claiming goods covered by a document of title
30 ~~((must))~~ shall satisfy the bailee's lien ~~((where))~~ if the bailee so
31 requests or ~~((where))~~ if the bailee is prohibited by law from
32 delivering the goods until the charges are paid.

33 ~~((+3))~~ (c) Unless ~~((the))~~ a person claiming the goods is ~~((one))~~
34 a person against ~~((whom))~~ which the document ~~((confers-no))~~ of title
35 does not confer a right under RCW 62A.7-503~~((+1),-he-or-she-must~~
36 ~~surrender-for-cancellation-or-notation-of-partial-deliveries-any~~
37 ~~outstanding-negotiable-document-covering-the-goods,-and))~~ (a):

1 indorsement and delivery. After ~~((his))~~ the named person's indorsement
2 in blank or to bearer, any person ~~((can))~~ may negotiate ~~((it))~~ the
3 document by delivery alone.

4 ~~((2))~~ ~~((a))~~ ~~A negotiable document of title is also negotiated by~~
5 ~~delivery alone when by its original terms it runs to bearer;~~

6 ~~((b))~~ ~~when a document running))~~ If the document's original terms run
7 to bearer, it is negotiated by delivery alone.

8 (3) If the document's original terms run to the order of a named
9 person and it is delivered to ~~((him))~~ the named person, the effect is
10 the same as if the document had been negotiated.

11 ~~((3))~~ (4) Negotiation of ~~((a negotiable))~~ the document ~~((of~~
12 ~~title))~~ after it has been indorsed to a ~~((specified))~~ named person
13 requires indorsement by the ~~((special indorsee as well as))~~ named
14 person and delivery.

15 ~~((4))~~ (5) A ~~((negotiable))~~ document ~~((of title))~~ is ~~((n))~~ duly
16 negotiated ~~((when))~~ if it is negotiated in the manner stated in this
17 ~~((section))~~ subsection to a holder ~~((who))~~ that purchases it in good
18 faith, without notice of any defense against or claim to it on the part
19 of any person, and for value, unless it is established that the
20 negotiation is not in the regular course of business or financing or
21 involves receiving the document in settlement or payment of a ~~((money))~~
22 monetary obligation.

23 ~~((5))~~ (b) The following rules apply to a negotiable electronic
24 document of title:

25 (1) If the document's original terms run to the order of a named
26 person or to bearer, the document is negotiated by delivery of the
27 document to another person. Indorsement by the named person is not
28 required to negotiate the document.

29 (2) If the document's original terms run to the order of a named
30 person and the named person has control of the document, the effect is
31 the same as if the document had been negotiated.

32 (3) A document is duly negotiated if it is negotiated in the manner
33 stated in this subsection to a holder that purchases it in good faith,
34 without notice of any defense against or claim to it on the part of any
35 person, and for value, unless it is established that the negotiation is
36 not in the regular course of business or financing or involves taking
37 delivery of the document in settlement or payment of a monetary
38 obligation.

1 (c) Indorsement of a nonnegotiable document of title neither makes
2 it negotiable nor adds to the transferee's rights.

3 ~~((+6))~~ (d) The naming in a negotiable bill of lading of a person
4 to be notified of the arrival of the goods does not limit the
5 negotiability of the bill ~~((nor))~~ or constitute notice to a purchaser
6 ~~((thereof))~~ of the bill of any interest of ~~((such))~~ that person in the
7 goods.

8 **Sec. 602.** RCW 62A.7-502 and 1965 ex.s. c 157 s 7-502 are each
9 amended to read as follows:

10 RIGHTS ACQUIRED BY DUE NEGOTIATION. ~~((+1))~~ (a) Subject to ~~((the~~
11 ~~following—section—and—to—the—provisions—of))~~ RCW 62A.7-205 ~~((on~~
12 ~~fungible—goods))~~ and 62A.7-503, a holder to ~~((whom))~~ which a negotiable
13 document of title has been duly negotiated acquires thereby:

- 14 ~~((+a))~~ (1) Title to the document;
- 15 ~~((+b))~~ (2) Title to the goods;
- 16 ~~((+c))~~ (3) All rights accruing under the law of agency or
17 estoppel, including rights to goods delivered to the bailee after the
18 document was issued; and

19 ~~((+d))~~ (4) The direct obligation of the issuer to hold or deliver
20 the goods according to the terms of the document free of any defense or
21 claim by ~~((him))~~ the issuer except those arising under the terms of the
22 document or under this Article~~((-))~~, but in the case of a delivery
23 order, the bailee's obligation accrues only upon the bailee's
24 acceptance of the delivery order and the obligation acquired by the
25 holder is that the issuer and any indorser will procure the acceptance
26 of the bailee.

27 ~~((+2))~~ (b) Subject to ~~((the—following—section))~~ RCW 62A.7-503,
28 title and rights ~~((se))~~ acquired by due negotiation are not defeated by
29 any stoppage of the goods represented by the document of title or by
30 surrender of ~~((such))~~ the goods by the bailee~~((-))~~ and are not impaired
31 even ~~((though))~~ if:

32 (1) The due negotiation or any prior due negotiation constituted a
33 breach of duty ~~((or—even—though))~~;

34 (2) Any person has been deprived of possession of ~~((the))~~ a
35 negotiable tangible document or control of a negotiable electronic
36 document by misrepresentation, fraud, accident, mistake, duress, loss,
37 theft, or conversion~~((-))~~ or ~~((even—though))~~

1 (3) A previous sale or other transfer of the goods or document has
2 been made to a third person.

3 **Sec. 603.** RCW 62A.7-503 and 2000 c 250 s 9A-814 are each amended
4 to read as follows:

5 DOCUMENT OF TITLE TO GOODS DEFEATED IN CERTAIN CASES. ~~((1))~~ (a)
6 A document of title confers no right in goods against a person ~~((who))~~
7 that before issuance of the document had a legal interest or a
8 perfected security interest in ~~((them and who neither))~~ the goods and
9 that did not:

10 ~~((a) delivered or entrusted them))~~ (1) Deliver or entrust the
11 goods or any document of title covering ~~((them))~~ the goods to the
12 bailor or ~~((his))~~ the bailor's nominee with:

13 (A) Actual or apparent authority to ship, store, or sell ~~((or~~
14 ~~with))~~;

15 (B) Power to obtain delivery under ~~((this Article-))~~ RCW 62A.7-
16 403~~((+))~~; or ~~((with))~~

17 (C) Power of disposition under ~~((this Title-))~~ RCW 62A.2-403 ~~((and~~
18 ~~62A.9A-320))~~, 62A.2A-304(2), 62A.2A-305(2), 62A.9A-320, or 62A.9A-
19 321(c) or other statute or rule of law; ~~((nor))~~ or

20 ~~((b) acquiesced))~~ (2) Acquiesce in the procurement by the bailor
21 or ~~((his))~~ its nominee of any document ~~((of title)).~~

22 ~~((2))~~ (b) Title to goods based upon an unaccepted delivery order
23 is subject to the rights of ~~((anyone to whom))~~ any person to which a
24 negotiable warehouse receipt or bill of lading covering the goods has
25 been duly negotiated. ~~((Such-a))~~ That title may be defeated under
26 ~~((the next section))~~ RCW 62A.7-504 to the same extent as the rights of
27 the issuer or a transferee from the issuer.

28 ~~((3))~~ (c) Title to goods based upon a bill of lading issued to a
29 freight forwarder is subject to the rights of ~~((anyone to whom))~~ any
30 person to which a bill issued by the freight forwarder is duly
31 negotiated~~((; but))~~. However, delivery by the carrier in accordance
32 with ~~((Part 4 of this Article))~~ RCW 62A.7-401 through 62A.7-404
33 pursuant to its own bill of lading discharges the carrier's obligation
34 to deliver.

35 **Sec. 604.** RCW 62A.7-504 and 1965 ex.s. c 157 s 7-504 are each
36 amended to read as follows:

1 RIGHTS ACQUIRED IN (~~THE~~) ABSENCE OF DUE NEGOTIATION; EFFECT OF
2 DIVERSION; (~~SELLER'S~~) STOPPAGE OF DELIVERY. (~~(1)~~) (a) A transferee
3 of a document of title, whether negotiable or nonnegotiable, to
4 (~~whom~~) which the document has been delivered but not duly negotiated,
5 acquires the title and rights (~~which his~~) that its transferor had or
6 had actual authority to convey.

7 (~~(2)~~) (b) In the case of a transfer of a nonnegotiable document
8 of title, until but not after the bailee receives (~~notification~~)
9 notice of the transfer, the rights of the transferee may be defeated:

10 (~~(a)~~) (1) By those creditors of the transferor (~~who~~) which
11 could treat the (~~sale~~) transfer as void under RCW (~~62A.7-402; or~~)
12 62A.2-402 or 62A.2A-308;

13 (~~(b)~~) (2) By a buyer from the transferor in ordinary course of
14 business if the bailee has delivered the goods to the buyer or received
15 notification of (~~his~~) the buyer's rights; (~~or~~

16 ~~(c)~~) (3) By a lessee from the transferor in ordinary course of
17 business if the bailee has delivered the goods to the lessee or
18 received notification of the lessee's rights; or

19 (4) As against the bailee, by good-faith dealings of the bailee
20 with the transferor.

21 (~~(3)~~) (c) A diversion or other change of shipping instructions by
22 the consignor in a nonnegotiable bill of lading which causes the bailee
23 not to deliver the goods to the consignee defeats the consignee's title
24 to the goods if (~~they~~) the goods have been delivered to a buyer in
25 ordinary course of business or a lessee in ordinary course of business
26 and, in any event, defeats the consignee's rights against the bailee.

27 (~~(4)~~) (d) Delivery of the goods pursuant to a nonnegotiable
28 document of title may be stopped by a seller under RCW 62A.2-705(~~(7~~
29 ~~and~~) or a lessor under RCW 62A.2A-526, subject to the requirements of
30 due notification (~~there provided~~) in those statutes. A bailee
31 (~~honoring~~) that honors the seller's or lessor's instructions is
32 entitled to be indemnified by the seller or lessor against any
33 resulting loss or expense.

34 **Sec. 605.** RCW 62A.7-505 and 1965 ex.s. c 157 s 7-505 are each
35 amended to read as follows:

36 INDORSER NOT (~~A~~) GUARANTOR FOR OTHER PARTIES. The indorsement of

1 a tangible document of title issued by a bailee does not make the
2 indorser liable for any default by the bailee or (~~by~~) previous
3 indorsers.

4 **Sec. 606.** RCW 62A.7-506 and 1965 ex.s. c 157 s 7-506 are each
5 amended to read as follows:

6 DELIVERY WITHOUT INDORSEMENT: RIGHT TO COMPEL INDORSEMENT. The
7 transferee of a negotiable tangible document of title has a
8 specifically enforceable right to have (~~his~~) its transferor supply
9 any necessary indorsement, but the transfer becomes a negotiation only
10 as of the time the indorsement is supplied.

11 **Sec. 607.** RCW 62A.7-507 and 1965 ex.s. c 157 s 7-507 are each
12 amended to read as follows:

13 WARRANTIES ON NEGOTIATION OR (~~TRANSFER OF RECEIPT OR BILL~~)
14 DELIVERY OF DOCUMENT OF TITLE. (~~Where~~) If a person negotiates or
15 (~~transfers~~) delivers a document of title for value, otherwise than as
16 a mere intermediary under (~~the next following section, then~~) RCW
17 62A.7-508, unless otherwise agreed (~~he warrants to his immediate~~
18 ~~purchaser only~~), the transferor, in addition to any warranty made in
19 selling or leasing the goods, warrants to its immediate purchaser only
20 that:

21 (~~(a) that~~) (1) The document is genuine; (and
22 (b) that he has no) (2) The transferor does not have knowledge of
23 any fact (~~which~~) that would impair (~~its~~) the document's validity or
24 worth; and

25 (~~(c) that his~~) (3) The negotiation or (~~transfer~~) delivery is
26 rightful and fully effective with respect to the title to the document
27 and the goods it represents.

28 **Sec. 608.** RCW 62A.7-508 and 1965 ex.s. c 157 s 7-508 are each
29 amended to read as follows:

30 WARRANTIES OF COLLECTING BANK AS TO DOCUMENTS OF TITLE. A
31 collecting bank or other intermediary known to be entrusted with
32 documents of title on behalf of another or with collection of a draft
33 or other claim against delivery of documents warrants by (~~such~~) the
34 delivery of the documents only its own good faith and authority(~~—~~

1 ~~This rule applies~~) even ~~((though))~~ if the collecting bank or other
2 intermediary has purchased or made advances against the claim or draft
3 to be collected.

4 **Sec. 609.** RCW 62A.7-509 and 1965 ex.s. c 157 s 7-509 are each
5 amended to read as follows:

6 ~~((RECEIPT OR BILL: WHEN))~~ ADEQUATE COMPLIANCE WITH COMMERCIAL
7 CONTRACT. ~~((The question))~~ Whether a document of title is adequate to
8 fulfill the obligations of a contract for sale, a contract for lease,
9 or the conditions of a letter of credit is ~~((governed by the Articles~~
10 ~~on Sales (Article 2) and on Letters of Credit (Article 5))~~) determined
11 by Article 2, 2A, or 5 of this title.

12 **PART VII**

13 **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 7**

14 **WAREHOUSE RECEIPTS AND BILLS OF LADING: MISCELLANEOUS PROVISIONS**

15 **Sec. 701.** RCW 62A.7-601 and 1965 ex.s. c 157 s 7-601 are each
16 amended to read as follows:

17 LOST ~~((AND MISSING))~~, STOLEN, OR DESTROYED DOCUMENTS OF TITLE.
18 ~~((1))~~ (a) If a document ~~((has been))~~ of title is lost, stolen, or
19 destroyed, a court may order delivery of the goods or issuance of a
20 substitute document and the bailee may without liability to any person
21 comply with ~~((such))~~ the order. If the document was negotiable ~~((the~~
22 ~~claimant must post security approved by the))~~, a court ~~((to indemnify))~~
23 may not order delivery of the goods or issuance of a substitute
24 document without the claimant's posting security unless it finds that
25 any person ~~((who))~~ that may suffer loss as a result of nonsurrender of
26 possession or control of the document is adequately protected against
27 the loss. If the document was ~~((not negotiable, such))~~ nonnegotiable,
28 the court may require security ~~((may be required at the discretion of~~
29 ~~the court))~~. The court may also ~~((in its discretion))~~ order payment of
30 the bailee's reasonable costs and ~~((counsel))~~ attorneys' fees in any
31 action under this subsection.

32 ~~((2))~~ (b) A bailee ~~((who))~~ that, without a court order, delivers
33 goods to a person claiming under a missing negotiable document of title
34 is liable to any person injured thereby~~((, and))~~. If the delivery is
35 not in good faith ~~((becomes))~~, the bailee is liable for conversion.

1 Delivery in good faith is not conversion if (~~made in accordance with~~
2 ~~a filed classification or tariff or, where no classification or tariff~~
3 ~~is filed, if~~) the claimant posts security with the bailee in an amount
4 at least double the value of the goods at the time of posting to
5 indemnify any person injured by the delivery (~~who~~) which files a
6 notice of claim within one year after the delivery.

7 **Sec. 702.** RCW 62A.7-602 and 1965 ex.s. c 157 s 7-602 are each
8 amended to read as follows:

9 (~~ATTACHMENT OF~~) JUDICIAL PROCESS AGAINST GOODS COVERED BY ((A))
10 NEGOTIABLE DOCUMENT OF TITLE. (~~Except where the~~) Unless a document
11 of title was originally issued upon delivery of the goods by a person
12 (~~who had no~~) that did not have power to dispose of them, (~~no~~) a
13 lien (~~attaches~~) does not attach by virtue of any judicial process to
14 goods in the possession of a bailee for which a negotiable document of
15 title is outstanding unless possession or control of the document
16 (~~be~~) is first surrendered to the bailee or (~~its~~) the document's
17 negotiation is enjoined(~~and~~). The bailee (~~shall~~) may not be
18 compelled to deliver the goods pursuant to process until possession or
19 control of the document is surrendered to (~~him or impounded by~~) the
20 bailee or to the court. (~~One who purchases~~) A purchaser of the
21 document for value without notice of the process or injunction takes
22 free of the lien imposed by judicial process.

23 **Sec. 703.** RCW 62A.7-603 and 1965 ex.s. c 157 s 7-603 are each
24 amended to read as follows:

25 CONFLICTING CLAIMS; INTERPLEADER. If more than one person claims
26 title to or possession of the goods, the bailee is excused from
27 delivery until (~~he~~) the bailee has (~~had~~) a reasonable time to
28 ascertain the validity of the adverse claims or to (~~bring an action to~~
29 ~~compel all claimants to interplead and may compel such~~) commence an
30 action for interpleader. The bailee may assert an interpleader(~~and~~)
31 either in defending an action for nondelivery of the goods(~~and~~) or by
32 original action(~~and whichever is appropriate~~).

33 **PART VIII**
34 **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 2**

1 **Sec. 801.** RCW 62A.2-103 and 2000 c 250 s 9A-803 are each amended
2 to read as follows:

3 DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this Article unless
4 the context otherwise requires:

5 (a) "Buyer" means a person who buys or contracts to buy goods.

6 (b) (~~("Good faith" in the case of a merchant means honesty in fact
7 and the observance of reasonable commercial standards of fair dealing
8 in the trade.)~~) [Reserved.]

9 (c) "Receipt" of goods means taking physical possession of them.

10 (d) "Seller" means a person who sells or contracts to sell goods.

11 (2) Other definitions applying to this Article or to specified
12 Parts thereof, and the sections in which they appear are:

13	"Acceptance."	RCW 62A.2-606.
14	"Banker's credit."	RCW 62A.2-325.
15	"Between merchants."	RCW 62A.2-104.
16	"Cancellation."	RCW 62A.2-106(4).
17	"Commercial unit."	RCW 62A.2-105.
18	"Confirmed credit."	RCW 62A.2-325.
19	"Conforming to contract."	RCW 62A.2-106.
20	"Contract for sale."	RCW 62A.2-106.
21	"Cover."	RCW 62A.2-712.
22	"Entrusting."	RCW 62A.2-403.
23	"Financing agency."	RCW 62A.2-104.
24	"Future goods."	RCW 62A.2-105.
25	"Goods."	RCW 62A.2-105.
26	"Identification."	RCW 62A.2-501.
27	"Installment contract."	RCW 62A.2-612.
28	"Letter of credit."	RCW 62A.2-325.
29	"Lot."	RCW 62A.2-105.
30	"Merchant."	RCW 62A.2-104.
31	"Overseas."	RCW 62A.2-323.
32	"Person in position of 33 seller."	RCW 62A.2-707.
34	"Present sale."	RCW 62A.2-106.
35	"Sale."	RCW 62A.2-106.
36	"Sale on approval."	RCW 62A.2-326.

1 "Sale or return." RCW 62A.2-326.

2 "Termination." RCW 62A.2-106.

3 (3) "Control" as provided in RCW 62A.7-106 and the following
4 definitions in other articles apply to this Article:

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

6 "Consignee." RCW 62A.7-102.

7 "Consignor." RCW 62A.7-102.

8 "Consumer goods." RCW 62A.9A-102.

9 "Dishonor." RCW 62A.3-502.

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

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

14 **Sec. 802.** RCW 62A.2-104 and 1965 ex.s. c 157 s 2-104 are each
15 amended to read as follows:

16 DEFINITIONS: "MERCHANT"; "BETWEEN MERCHANTS"; "FINANCING
17 AGENCY."
18 ((-)) (1) "Merchant" means a person who deals in goods of the
19 kind or otherwise by his or her occupation holds himself or herself out
20 as having knowledge or skill peculiar to the practices or goods
21 involved in the transaction or to whom such knowledge or skill may be
22 attributed by his or her employment of an agent or broker or other
23 intermediary who by his or her occupation holds himself or herself out
24 as having such knowledge or skill.

25 (2) "Financing agency" means a bank, finance company or other
26 person who in the ordinary course of business makes advances against
27 goods or documents of title or who by arrangement with either the
28 seller or the buyer intervenes in ordinary course to make or collect
29 payment due or claimed under the contract for sale, as by purchasing or
30 paying the seller's draft or making advances against it or by merely
31 taking it for collection whether or not documents of title accompany or
32 are associated with the draft. "Financing agency" includes also a bank
33 or other person who similarly intervenes between persons who are in the
position of seller and buyer in respect to the goods (RCW 62A.2-707).

1 (3) "Between merchants" means in any transaction with respect to
2 which both parties are chargeable with the knowledge or skill of
3 merchants.

4 **Sec. 803.** RCW 62A.2-202 and 1965 ex.s. c 157 s 2-202 are each
5 amended to read as follows:

6 FINAL WRITTEN EXPRESSION: PAROL OR EXTRINSIC EVIDENCE. Terms with
7 respect to which the confirmatory memoranda of the parties agree or
8 which are otherwise set forth in a writing intended by the parties as
9 a final expression of their agreement with respect to such terms as are
10 included therein may not be contradicted by evidence of any prior
11 agreement or of a contemporaneous oral agreement but may be explained
12 or supplemented:

13 (a) By course of performance, course of dealing, or usage of trade
14 (~~((RCW 62A.1-205) or by course of performance (RCW 62A.2-208))~~) (RCW
15 62A.1-303); and

16 (b) By evidence of consistent additional terms unless the court
17 finds the writing to have been intended also as a complete and
18 exclusive statement of the terms of the agreement.

19 **Sec. 804.** RCW 62A.2-310 and 1965 ex.s. c 157 s 2-310 are each
20 amended to read as follows:

21 OPEN TIME FOR PAYMENT OR RUNNING OF CREDIT; AUTHORITY TO SHIP UNDER
22 RESERVATION. Unless otherwise agreed:

23 (a) Payment is due at the time and place at which the buyer is to
24 receive the goods even though the place of shipment is the place of
25 delivery; and

26 (b) If the seller is authorized to send the goods he or she may
27 ship them under reservation, and may tender the documents of title, but
28 the buyer may inspect the goods after their arrival before payment is
29 due unless such inspection is inconsistent with the terms of the
30 contract (RCW 62A.2-513); and

31 (c) If delivery is authorized and made by way of documents of title
32 otherwise than by subsection (b) of this section then payment is due
33 regardless of where the goods are to be received (i) at the time and
34 place at which the buyer is to receive delivery of the tangible
35 documents (~~((regardless of where the goods are to be received))~~) or (ii)

1 at the time the buyer is to receive delivery of the electronic
2 documents and at the seller's place of business or if none, the
3 seller's residence; and

4 (d) Where the seller is required or authorized to ship the goods on
5 credit the credit period runs from the time of shipment but post-dating
6 the invoice or delaying its dispatch will correspondingly delay the
7 starting of the credit period.

8 **Sec. 805.** RCW 62A.2-323 and 1965 ex.s. c 157 s 2-323 are each
9 amended to read as follows:

10 FORM OF BILL OF LADING REQUIRED IN OVERSEAS SHIPMENT; "OVERSEAS."

11 (1) Where the contract contemplates overseas shipment and contains a
12 term C.I.F. or C.&F. or F.O.B. vessel, the seller unless otherwise
13 agreed must obtain a negotiable bill of lading stating that the goods
14 have been loaded on board or, in the case of a term C.I.F. or C.&F.,
15 received for shipment.

16 (2) Where in a case within subsection (1) of this section a
17 tangible bill of lading has been issued in a set of parts, unless
18 otherwise agreed if the documents are not to be sent from abroad the
19 buyer may demand tender of the full set; otherwise only one part of the
20 bill of lading need be tendered. Even if the agreement expressly
21 requires a full set:

22 (a) Due tender of a single part is acceptable within the provisions
23 of this Article on cure of improper delivery (~~((subsection (1) of))~~) RCW
24 62A.2-508(1)); and

25 (b) Even though the full set is demanded, if the documents are sent
26 from abroad the person tendering an incomplete set may nevertheless
27 require payment upon furnishing an indemnity which the buyer in good
28 faith deems adequate.

29 (3) A shipment by water or by air or a contract contemplating such
30 shipment is "overseas" insofar as by usage of trade or agreement it is
31 subject to the commercial, financing or shipping practices
32 characteristic of international deep water commerce.

33 **Sec. 806.** RCW 62A.2-401 and 1965 ex.s. c 157 s 2-401 are each
34 amended to read as follows:

35 PASSING OF TITLE; RESERVATION FOR SECURITY; LIMITED APPLICATION OF
36 THIS SECTION. Each provision of this Article with regard to the

1 rights, obligations and remedies of the seller, the buyer, purchasers
2 or other third parties applies irrespective of title to the goods
3 except where the provision refers to such title. Insofar as situations
4 are not covered by the other provisions of this Article and matters
5 concerning title become material the following rules apply:

6 (1) Title to goods cannot pass under a contract for sale prior to
7 their identification to the contract (RCW 62A.2-501), and unless
8 otherwise explicitly agreed the buyer acquires by their identification
9 a special property as limited by this title. Any retention or
10 reservation by the seller of the title (property) in goods shipped or
11 delivered to the buyer is limited in effect to a reservation of a
12 security interest. Subject to these provisions and to the provisions
13 of the Article on Secured Transactions Article 9A, title to goods
14 passes from the seller to the buyer in any manner and on any conditions
15 explicitly agreed on by the parties.

16 (2) Unless otherwise explicitly agreed title passes to the buyer at
17 the time and place at which the seller completes his or her performance
18 with reference to the physical delivery of the goods, despite any
19 reservation of a security interest and even though a document of title
20 is to be delivered at a different time or place; and in particular and
21 despite any reservation of a security interest by the bill of lading:

22 (a) If the contract requires or authorizes the seller to send the
23 goods to the buyer but does not require him or her to deliver them at
24 destination, title passes to the buyer at the time and place of
25 shipment; but

26 (b) If the contract requires delivery at destination, title passes
27 on tender there.

28 (3) Unless otherwise explicitly agreed where delivery is to be made
29 without moving the goods((τ)):

30 (a) If the seller is to deliver a tangible document of title, title
31 passes at the time when and the place where he or she delivers such
32 documents and if the seller is to deliver an electronic document of
33 title, title passes when the seller delivers the document; or

34 (b) If the goods are at the time of contracting already identified
35 and no documents of title are to be delivered, title passes at the time
36 and place of contracting.

37 (4) A rejection or other refusal by the buyer to receive or retain

1 the goods, whether or not justified, or a justified revocation of
2 acceptance reverts title to the goods in the seller. Such reversioning
3 occurs by operation of law and is not a "sale."~~((-))~~

4 **Sec. 807.** RCW 62A.2-503 and 1965 ex.s. c 157 s 2-503 are each
5 amended to read as follows:

6 MANNER OF SELLER'S TENDER OF DELIVERY. (1) Tender of delivery
7 requires that the seller put and hold conforming goods at the buyer's
8 disposition and give the buyer any notification reasonably necessary to
9 enable him or her to take delivery. The manner, time and place for
10 tender are determined by the agreement and this Article, and in
11 particular:

12 (a) Tender must be at a reasonable hour, and if it is of goods they
13 must be kept available for the period reasonably necessary to enable
14 the buyer to take possession; but

15 (b) Unless otherwise agreed the buyer must furnish facilities
16 reasonably suited to the receipt of the goods.

17 (2) Where the case is within the next section respecting shipment
18 tender requires that the seller comply with its provisions.

19 (3) Where the seller is required to deliver at a particular
20 destination tender requires that he or she comply with subsection (1)
21 of this section and also in any appropriate case tender documents as
22 described in subsections (4) and (5) of this section.

23 (4) Where goods are in the possession of a bailee and are to be
24 delivered without being moved:

25 (a) Tender requires that the seller either tender a negotiable
26 document of title covering such goods or procure acknowledgment by the
27 bailee of the buyer's right to possession of the goods; but

28 (b) Tender to the buyer of a nonnegotiable document of title or of
29 a (~~written direction to~~) record directing the bailee to deliver is
30 sufficient tender unless the buyer seasonably objects, and except as
31 otherwise provided in Article 9A of this title, receipt by the bailee
32 of notification of the buyer's rights fixes those rights as against the
33 bailee and all third persons; but risk of loss of the goods and of any
34 failure by the bailee to honor the nonnegotiable document of title or
35 to obey the direction remains on the seller until the buyer has had a
36 reasonable time to present the document or direction, and a refusal by

1 the bailee to honor the document or to obey the direction defeats the
2 tender.

- 3 (5) Where the contract requires the seller to deliver documents:
4 (a) He or she must tender all such documents in correct form,
5 except as provided in this Article with respect to bills of lading in
6 a set (~~((subsection (2) of))~~) RCW 62A.2-323(2)); and
7 (b) Tender through customary banking channels is sufficient and
8 dishonor of a draft accompanying or associated with the documents
9 constitutes nonacceptance or rejection.

10 **Sec. 808.** RCW 62A.2-505 and 1965 ex.s. c 157 s 2-505 are each
11 amended to read as follows:

12 SELLER'S SHIPMENT UNDER RESERVATION. (1) Where the seller has
13 identified goods to the contract by or before shipment:

14 (a) His or her procurement of a negotiable bill of lading to his or
15 her own order or otherwise reserves in him or her a security interest
16 in the goods. His or her procurement of the bill to the order of a
17 financing agency or of the buyer indicates in addition only the
18 seller's expectation of transferring that interest to the person named.

19 (b) A nonnegotiable bill of lading to himself or herself or his or
20 her nominee reserves possession of the goods as security but except in
21 a case of conditional delivery (~~((subsection (2) of))~~) RCW 62A.2-507(2))
22 a nonnegotiable bill of lading naming the buyer as consignee reserves
23 no security interest even though the seller retains possession or
24 control of the bill of lading.

25 (2) When shipment by the seller with reservation of a security
26 interest is in violation of the contract for sale it constitutes an
27 improper contract for transportation within the preceding section but
28 impairs neither the rights given to the buyer by shipment and
29 identification of the goods to the contract nor the seller's powers as
30 a holder of a negotiable document of title.

31 **Sec. 809.** RCW 62A.2-506 and 1965 ex.s. c 157 s 2-506 are each
32 amended to read as follows:

33 RIGHTS OF FINANCING AGENCY. (1) A financing agency by paying or
34 purchasing for value a draft which relates to a shipment of goods
35 acquires to the extent of the payment or purchase and in addition to
36 its own rights under the draft and any document of title securing it

1 any rights of the shipper in the goods including the right to stop
2 delivery and the shipper's right to have the draft honored by the
3 buyer.

4 (2) The right to reimbursement of a financing agency which has in
5 good faith honored or purchased the draft under commitment to or
6 authority from the buyer is not impaired by subsequent discovery of
7 defects with reference to any relevant document which was apparently
8 regular (~~on its face~~).

9 **Sec. 810.** RCW 62A.2-509 and 1965 ex.s. c 157 s 2-509 are each
10 amended to read as follows:

11 RISK OF LOSS IN THE ABSENCE OF BREACH. (1) Where the contract
12 requires or authorizes the seller to ship the goods by carrier:

13 (a) If it does not require him or her to deliver them at a
14 particular destination, the risk of loss passes to the buyer when the
15 goods are duly delivered to the carrier even though the shipment is
16 under reservation (RCW 62A.2-505); but

17 (b) If it does require him or her to deliver them at a particular
18 destination and the goods are there duly tendered while in the
19 possession of the carrier, the risk of loss passes to the buyer when
20 the goods are there duly so tendered as to enable the buyer to take
21 delivery.

22 (2) Where the goods are held by a bailee to be delivered without
23 being moved, the risk of loss passes to the buyer:

24 (a) On his or her receipt of possession or control of a negotiable
25 document of title covering the goods; or

26 (b) On acknowledgment by the bailee of the buyer's right to
27 possession of the goods; or

28 (c) After his or her receipt of possession or control of a
29 nonnegotiable document of title or other (~~written~~) direction to
30 deliver in a record, as provided in (~~subsection (4)(b) of~~) RCW 62A.2-
31 503(4)(b).

32 (3) In any case not within subsection (1) or (2) of this section,
33 the risk of loss passes to the buyer on his or her receipt of the goods
34 if the seller is a merchant; otherwise the risk passes to the buyer on
35 tender of delivery.

36 (4) The provisions of this section are subject to contrary

1 agreement of the parties and to the provisions of this Article on sale
2 on approval (RCW 62A.2-327) and on effect of breach on risk of loss
3 (RCW 62A.2-510).

4 **Sec. 811.** RCW 62A.2-605 and 1965 ex.s. c 157 s 2-605 are each
5 amended to read as follows:

6 WAIVER OF BUYER'S OBJECTIONS BY FAILURE TO PARTICULARIZE. (1) The
7 buyer's failure to state in connection with rejection a particular
8 defect which is ascertainable by reasonable inspection precludes him or
9 her from relying on the unstated defect to justify rejection or to
10 establish breach:

11 (a) Where the seller could have cured it if stated seasonably; or

12 (b) Between merchants when the seller has after rejection made a
13 request in writing for a full and final written statement of all
14 defects on which the buyer proposes to rely.

15 (2) Payment against documents made without reservation of rights
16 precludes recovery of the payment for defects apparent (~~on the face~~
17 ~~of~~) in the documents.

18 **Sec. 812.** RCW 62A.2-705 and 2011 c 336 s 823 are each amended to
19 read as follows:

20 SELLER'S STOPPAGE OF DELIVERY IN TRANSIT OR OTHERWISE. (1) The
21 seller may stop delivery of goods in the possession of a carrier or
22 other bailee when he or she discovers the buyer to be insolvent (RCW
23 62A.2-702) and may stop delivery of carload, truckload, planeload(~~(τ)~~)
24 or larger shipments of express or freight when the buyer repudiates or
25 fails to make a payment due before delivery or if for any other reason
26 the seller has a right to withhold or reclaim the goods.

27 (2) As against such buyer the seller may stop delivery until:

28 (a) Receipt of the goods by the buyer; or

29 (b) Acknowledgment to the buyer by any bailee of the goods except
30 a carrier that the bailee holds the goods for the buyer; or

31 (c) Such acknowledgment to the buyer by a carrier by reshipment or
32 as a warehouse (~~operator~~); or

33 (d) Negotiation to the buyer of any negotiable document of title
34 covering the goods.

35 (3)(a) To stop delivery the seller must so notify as to enable the
36 bailee by reasonable diligence to prevent delivery of the goods.

1 (b) After such notification the bailee must hold and deliver the
2 goods according to the directions of the seller but the seller is
3 liable to the bailee for any ensuing charges or damages.

4 (c) If a negotiable document of title has been issued for goods the
5 bailee is not obliged to obey a notification to stop until surrender of
6 possession or control of the document.

7 (d) A carrier who has issued a nonnegotiable bill of lading is not
8 obliged to obey a notification to stop received from a person other
9 than the consignor.

10 **PART IX**

11 **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 2A**

12 **Sec. 901.** RCW 62A.2A-103 and 2000 c 250 s 9A-808 are each amended
13 to read as follows:

14 DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this Article unless
15 the context otherwise requires:

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

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

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

35 (d) "Conforming" goods or performance under a lease contract means

1 goods or performance that are in accordance with the obligations under
2 the lease contract.

3 (e) "Consumer lease" means a lease that a lessor regularly engaged
4 in the business of leasing or selling makes to a lessee who is an
5 individual who takes under the lease primarily for a personal, family,
6 or household purpose, if the total payments to be made under the lease
7 contract, excluding payments for options to renew or buy, do not exceed
8 twenty-five thousand dollars.

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

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

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

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

14 (iii) Only in the case of a consumer lease, either:

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

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

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

29 (h) "Goods" means all things that are movable at the time of
30 identification to the lease contract, or are fixtures (RCW 62A.2A-309),
31 but the term does not include money, documents, instruments, accounts,
32 chattel paper, general intangibles, or minerals or the like, including
33 oil and gas, before extraction. The term also includes the unborn
34 young of animals.

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

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

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

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

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

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

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

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

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

37 (r) "Lien" means a charge against or interest in goods to secure

1 payment of a debt or performance of an obligation, but the term does
2 not include a security interest.

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

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

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

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

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

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

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

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

29 (2) Other definitions applying to this Article or to specified
30 Parts thereof, and the sections in which they appear are:

31		
32	"Accessions."	RCW 62A.2A-310(1).
33	"Construction	
34	mortgage."	RCW 62A.2A-309(1)(d).
35	"Encumbrance."	RCW 62A.2A-309(1)(e).
36	"Fixtures."	RCW 62A.2A-309(1)(a).

1 "Fixture filing." RCW 62A.2A-309(1)(b).
2 "Purchase money
3 lease." RCW 62A.2A-309(1)(c).

4 (3) The following definitions in other articles apply to this
5 Article:

6 "Account." RCW 62A.9A-102(a)(2).
7 "Between merchants." RCW 62A.2-104(3).
8 "Buyer." RCW 62A.2-103(1)(a).
9 "Chattel paper." RCW 62A.9A-102(a)(11).
10 "Consumer goods." RCW 62A.9A-102(a)(23).
11 "Document." RCW 62A.9A-102(a)(30).
12 "Entrusting." RCW 62A.2-403(3).
13 "General intangible." RCW 62A.9A-102(a)(42).
14 (~~"Good faith."~~ RCW ~~62A.2-103(1)(b);~~)
15 "Instrument." RCW 62A.9A-102(a)(47).
16 "Merchant." RCW 62A.2-104(1).
17 "Mortgage." RCW 62A.9A-102(a)(55).
18 "Pursuant to
19 commitment." RCW 62A.9A-102(a)(68).
20 "Receipt." RCW 62A.2-103(1)(c).
21 "Sale." RCW 62A.2-106(1).
22 "Sale on approval." RCW 62A.2-326.
23 "Sale or return." RCW 62A.2-326.
24 "Seller." RCW 62A.2-103(1)(d).

25 (4) In addition, Article (~~(62A.1-RCW)~~) 1 of this title contains
26 general definitions and principles of construction and interpretation
27 applicable throughout this Article.

28 **Sec. 902.** RCW 62A.2A-103 and 2011 c 74 s 701 are each amended to
29 read as follows:

30 DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this Article unless
31 the context otherwise requires:

32 (a) "Buyer in ordinary course of business" means a person who in
33 good faith and without knowledge that the sale to him or her is in

1 violation of the ownership rights or security interest or leasehold
2 interest of a third party in the goods buys in ordinary course from a
3 person in the business of selling goods of that kind but does not
4 include a pawnbroker. "Buying" may be for cash, or by exchange of
5 other property, or on secured or unsecured credit, and includes
6 (~~receiving~~) acquiring goods or documents of title under a preexisting
7 contract for sale but does not include a transfer in bulk or as
8 security for or in total or partial satisfaction of a money debt.

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

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

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

21 (e) "Consumer lease" means a lease that a lessor regularly engaged
22 in the business of leasing or selling makes to a lessee who is an
23 individual who takes under the lease primarily for a personal, family,
24 or household purpose, if the total payments to be made under the lease
25 contract, excluding payments for options to renew or buy, do not exceed
26 twenty-five thousand dollars.

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

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

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

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

32 (iii) Only in the case of a consumer lease, either:

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

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

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

9 (h) "Goods" means all things that are movable at the time of
10 identification to the lease contract, or are fixtures (RCW 62A.2A-309),
11 but the term does not include money, documents, instruments, accounts,
12 chattel paper, general intangibles, or minerals or the like, including
13 oil and gas, before extraction. The term also includes the unborn
14 young of animals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (2) Other definitions applying to this Article or to specified
9 Parts thereof, and the sections in which they appear are:

10	"Accessions."	RCW 62A.2A-310.
11	"Construction	
12	mortgage."	RCW 62A.2A-309.
13	"Encumbrance."	RCW 62A.2A-309.
14	"Fixtures."	RCW 62A.2A-309.
15	"Fixture filing."	RCW 62A.2A-309.
16	"Purchase money	
17	lease."	RCW 62A.2A-309.

18 (3) The following definitions in other articles apply to this
19 Article:

20	"Account."	RCW 62A.9A-102.
21	"Between merchants."	RCW 62A.2-104.
22	"Buyer."	RCW 62A.2-103.
23	"Chattel paper."	RCW 62A.9A-102.
24	"Consumer goods."	RCW 62A.9A-102.
25	"Document."	RCW 62A.9A-102.
26	"Entrusting."	RCW 62A.2-403.
27	"General intangible."	RCW 62A.9A-102.
28	(("Good faith."	RCW 62A.2-103.)
29	"Instrument."	RCW 62A.9A-102.
30	"Merchant."	RCW 62A.2-104(1).
31	"Mortgage."	RCW 62A.9A-102.

1	"Pursuant to	
2	commitment."	RCW 62A.9A-102.
3	"Receipt."	RCW 62A.2-103.
4	"Sale."	RCW 62A.2-106.
5	"Sale on approval."	RCW 62A.2-326.
6	"Sale or return."	RCW 62A.2-326.
7	"Seller."	RCW 62A.2-103.

8 (4) In addition, Article (~~(62A.1-RCW)~~) 1 of this title contains
9 general definitions and principles of construction and interpretation
10 applicable throughout this Article.

11 **Sec. 903.** RCW 62A.2A-501 and 1993 c 230 s 2A-501 are each amended
12 to read as follows:

13 DEFAULT: PROCEDURE. (1) Whether the lessor or the lessee is in
14 default under a lease contract is determined by the lease agreement and
15 this Article.

16 (2) If the lessor or the lessee is in default under the lease
17 contract, the party seeking enforcement has rights and remedies as
18 provided in this Article and, except as limited by this Article, as
19 provided in the lease agreement.

20 (3) If the lessor or the lessee is in default under the lease
21 contract, the party seeking enforcement may reduce the party's claim to
22 judgment, or otherwise enforce the lease contract by self help or any
23 available judicial procedure or nonjudicial procedure, including
24 administrative proceeding, arbitration, or the like, in accordance with
25 this Article.

26 (4) Except as otherwise provided in (~~(RCW 62A.1-106(1))~~) RCW 62A.1-
27 305(a) or this Article or the lease agreement, the rights and remedies
28 referred to in subsections (2) and (3) of this section are cumulative.

29 (5) If the lease agreement covers both real property and goods, the
30 party seeking enforcement may proceed under this Part 5 as to the
31 goods, or under other applicable law as to both the real property and
32 the goods in accordance with that party's rights and remedies in
33 respect of the real property, in which case this Part 5 does not apply.

34 **Sec. 904.** RCW 62A.2A-514 and 1993 c 230 s 2A-514 are each amended
35 to read as follows:

1 WAIVER OF LESSEE'S OBJECTIONS. (1) In rejecting goods, a lessee's
2 failure to state a particular defect that is ascertainable by
3 reasonable inspection precludes the lessee from relying on the defect
4 to justify rejection or to establish default:

5 (a) If, stated seasonably, the lessor or the supplier could have
6 cured it (RCW 62A.2A-513); or

7 (b) Between merchants if the lessor or the supplier after rejection
8 has made a request in writing for a full and final written statement of
9 all defects on which the lessee proposes to rely.

10 (2) A lessee's failure to reserve rights when paying rent or other
11 consideration against documents precludes recovery of the payment for
12 defects apparent (~~(on the face of)~~) in the documents.

13 **Sec. 905.** RCW 62A.2A-518 and 1993 c 230 s 2A-518 are each amended
14 to read as follows:

15 COVER; SUBSTITUTE GOODS. (1) After a default by a lessor under the
16 lease contract of the type described in ((+))RCW 62A.2A-508(1)((+)),
17 or, if agreed, after other default by the lessor, the lessee may cover
18 by making any purchase or lease of or contract to purchase or lease
19 goods in substitution for those due from the lessor.

20 (2) Except as otherwise provided with respect to damages liquidated
21 in the lease agreement (RCW 62A.2A-504) or otherwise determined
22 pursuant to agreement of the parties (~~((RCW 62A.1-102(3)))~~) (RCW 62A.1-
23 302 and 62A.2A-503), if a lessee's cover is by a lease agreement
24 substantially similar to the original lease agreement and the new lease
25 agreement is made in good faith and in a commercially reasonable
26 manner, the lessee may recover from the lessor as damages (i) the
27 present value, as of the date of the commencement of the term of the
28 new lease agreement, of the rent under the new lease applicable to that
29 period of the new lease term which is comparable to the then remaining
30 term of the original lease agreement minus the present value as of the
31 same date of the total rent for the then remaining lease term of the
32 original lease agreement, and (ii) any incidental or consequential
33 damages, less expenses saved in consequence of the lessor's default.

34 (3) If a lessee's cover is by lease agreement that for any reason
35 does not qualify for treatment under subsection (2) of this section, or
36 is by purchase or otherwise, the lessee may recover from the lessor as
37 if the lessee had elected not to cover and RCW 62A.2A-519 governs.

1 **Sec. 906.** RCW 62A.2A-519 and 1993 c 230 s 2A-519 are each amended
2 to read as follows:

3 LESSEE'S DAMAGES FOR NONDELIVERY, REPUDIATION, DEFAULT, AND BREACH
4 OF WARRANTY IN REGARD TO ACCEPTED GOODS. (1) Except as otherwise
5 provided with respect to damages liquidated in the lease agreement (RCW
6 62A.2A-504) or otherwise determined pursuant to agreement of the
7 parties (~~((RCW 62A.1-102(3)))~~) (RCW 62A.1-302 and 62A.2A-503), if a
8 lessee elects not to cover or a lessee elects to cover and the cover is
9 by lease agreement that for any reason does not qualify for treatment
10 under RCW 62A.2A-518(2), or is by purchase or otherwise, the measure of
11 damages for nondelivery or repudiation by the lessor or for rejection
12 or revocation of acceptance by the lessee is the present value, as of
13 the date of the default, of the then market rent minus the present
14 value as of the same date of the original rent, computed for the
15 remaining lease term of the original lease agreement, together with
16 incidental and consequential damages, less expenses saved in
17 consequence of the lessor's default.

18 (2) Market rent is to be determined as of the place for tender or,
19 in cases of rejection after arrival or revocation of acceptance, as of
20 the place of arrival.

21 (3) Except as otherwise agreed, if the lessee has accepted goods
22 and given notification (RCW 62A.2A-516(3)), the measure of damages for
23 nonconforming tender or delivery or other default by a lessor is the
24 loss resulting in the ordinary course of events from the lessor's
25 default as determined in any manner that is reasonable together with
26 incidental and consequential damages, less expenses saved in
27 consequence of the lessor's default.

28 (4) Except as otherwise agreed, the measure of damages for breach
29 of warranty is the present value at the time and place of acceptance of
30 the difference between the value of the use of the goods accepted and
31 the value if they had been as warranted for the lease term, unless
32 special circumstances show proximate damages of a different amount,
33 together with incidental and consequential damages, less expenses saved
34 in consequence of the lessor's default or breach of warranty.

35 **Sec. 907.** RCW 62A.2A-526 and 2011 c 336 s 824 are each amended to
36 read as follows:

37 LESSOR'S STOPPAGE OF DELIVERY IN TRANSIT OR OTHERWISE. (1) A

1 lessor may stop delivery of goods in the possession of a carrier or
2 other bailee if the lessor discovers the lessee to be insolvent and may
3 stop delivery of carload, truckload, planeload, or larger shipments of
4 express or freight if the lessee repudiates or fails to make a payment
5 due before delivery, whether for rent, security, or otherwise under the
6 lease contract, or for any other reason the lessor has a right to
7 withhold or take possession of the goods.

8 (2) In pursuing its remedies under subsection (1) of this section,
9 the lessor may stop delivery until:

10 (a) Receipt of the goods by the lessee;

11 (b) Acknowledgment to the lessee by any bailee of the goods, except
12 a carrier, that the bailee holds the goods for the lessee; or

13 (c) Such an acknowledgment to the lessee by a carrier via
14 reshipment or as a warehouse (~~operator~~).

15 (3)(a) To stop delivery, a lessor shall so notify as to enable the
16 bailee by reasonable diligence to prevent delivery of the goods.

17 (b) After notification, the bailee shall hold and deliver the goods
18 according to the directions of the lessor, but the lessor is liable to
19 the bailee for any ensuing charges or damages.

20 (c) A carrier who has issued a nonnegotiable bill of lading is not
21 obliged to obey a notification to stop received from a person other
22 than the consignor.

23 **Sec. 908.** RCW 62A.2A-527 and 1993 c 230 s 2A-527 are each amended
24 to read as follows:

25 LESSOR'S RIGHTS TO DISPOSE OF GOODS. (1) After a default by a
26 lessee under the lease contract of the type described in RCW 62A.2A-523
27 (1) or (3)(a) or after the lessor refuses to deliver or takes
28 possession of goods (RCW 62A.2A-525 or 62A.2A-526), or, if agreed,
29 after other default by a lessee, the lessor may dispose of the goods
30 concerned or the undelivered balance thereof by lease, sale, or
31 otherwise.

32 (2) Except as otherwise provided with respect to damages liquidated
33 in the lease agreement (RCW 62A.2A-504) or otherwise determined
34 pursuant to agreement of the parties (~~((RCW 62A.1-102(3)))~~) (RCW 62A.1-
35 302 and 62A.2A-503), if the disposition is by lease agreement
36 substantially similar to the original lease agreement and the new lease
37 agreement is made in good faith and in a commercially reasonable

1 manner, the lessor may recover from the lessee as damages (i) accrued
2 and unpaid rent as of the date of the commencement of the term of the
3 new lease agreement, (ii) the present value, as of the same date, of
4 the total rent for the then remaining lease term of the original lease
5 agreement minus the present value, as of the same date, of the rent
6 under the new lease agreement applicable to that period of the new
7 lease term which is comparable to the then remaining term of the
8 original lease agreement, and (iii) any incidental damages allowed
9 under RCW 62A.2A-530, less expenses saved in consequence of the
10 lessee's default.

11 (3) If the lessor's disposition is by lease agreement that for any
12 reason does not qualify for treatment under subsection (2) of this
13 section, or is by sale or otherwise, the lessor may recover from the
14 lessee as if the lessor had elected not to dispose of the goods and RCW
15 62A.2A-528 governs.

16 (4) A subsequent buyer or lessee who buys or leases from the lessor
17 in good faith for value as a result of a disposition under this section
18 takes the goods free of the original lease contract and any rights of
19 the original lessee even though the lessor fails to comply with one or
20 more of the requirements of this Article.

21 (5) The lessor is not accountable to the lessee for any profit made
22 on any disposition. A lessee who has rightfully rejected or
23 justifiably revoked acceptance shall account to the lessor for any
24 excess over the amount of the lessee's security interest (RCW 62A.2A-
25 508((+5))).

26 **Sec. 909.** RCW 62A.2A-528 and 1993 c 230 s 2A-528 are each amended
27 to read as follows:

28 LESSOR'S DAMAGES FOR NONACCEPTANCE, FAILURE TO PAY, REPUDIATION, OR
29 OTHER DEFAULT. (1) Except as otherwise provided with respect to
30 damages liquidated in the lease agreement (RCW 62A.2A-504) or otherwise
31 determined pursuant to agreement of the parties (~~((RCW 62A.1-102(3)))~~)
32 (RCW 62A.1-302 and 62A.2A-503), if a lessor elects to retain the goods
33 or a lessor elects to dispose of the goods and the disposition is by
34 lease agreement that for any reason does not qualify for treatment
35 under RCW 62A.2A-527(2), or is by sale or otherwise, the lessor may
36 recover from the lessee as damages for a default of the type described
37 in RCW 62A.2A-523 (1) or (3)(a), or, if agreed, for other default of

1 the lessee, (i) accrued and unpaid rent as of the date of default if
2 the lessee has never taken possession of the goods, or, if the lessee
3 has taken possession of the goods, as of the date the lessor
4 repossesses the goods or an earlier date on which the lessee makes a
5 tender of the goods to the lessor, (ii) the present value as of the
6 date determined under (i) of this subsection (~~((1)(i) of this section)~~)
7 of the total rent for the then remaining lease term of the original
8 lease agreement minus the present value as of the same date of the
9 market rent at the place where the goods are located computed for the
10 same lease term, and (iii) any incidental damages allowed under RCW
11 62A.2A-530, less expenses saved in consequence of the lessee's default.

12 (2) If the measure of damages provided in subsection (1) of this
13 section is inadequate to put a lessor in as good a position as
14 performance would have, the measure of damages is the present value of
15 the profit, including reasonable overhead, the lessor would have made
16 from full performance by the lessee, together with any incidental
17 damages allowed under RCW 62A.2A-530, due allowance for costs
18 reasonably incurred and due credit for payments or proceeds of
19 disposition.

20 **PART X**

21 **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 3**

22 **Sec. 1001.** RCW 62A.3-103 and 1993 c 229 s 5 are each amended to
23 read as follows:

24 DEFINITIONS. (a) In this Article:

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

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

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

29 (4) (~~("Good faith" means honesty in fact and the observance of~~
30 ~~reasonable commercial standards of fair dealing.))~~ [Reserved.]

31 (5) "Maker" means a person who signs or is identified in a note as
32 a person undertaking to pay.

33 (6) "Order" means a written instruction to pay money signed by the
34 person giving the instruction. The instruction may be addressed to any
35 person, including the person giving the instruction, or to one or more

1 persons jointly or in the alternative but not in succession. An
2 authorization to pay is not an order unless the person authorized to
3 pay is also instructed to pay.

4 (7) "Ordinary care" in the case of a person engaged in business
5 means observance of reasonable commercial standards, prevailing in the
6 area in which the person is located, with respect to the business in
7 which the person is engaged. In the case of a bank that takes an
8 instrument for processing for collection or payment by automated means,
9 reasonable commercial standards do not require the bank to examine the
10 instrument if the failure to examine does not violate the bank's
11 prescribed procedures and the bank's procedures do not vary
12 unreasonably from general banking usage not disapproved by this Article
13 or Article 4.

14 (8) "Party" means a party to an instrument.

15 (9) "Promise" means a written undertaking to pay money signed by
16 the person undertaking to pay. An acknowledgment of an obligation by
17 the obligor is not a promise unless the obligor also undertakes to pay
18 the obligation.

19 (10) "Prove" with respect to a fact means to meet the burden of
20 establishing the fact (RCW 62A.1-201**(b)**(8)).

21 (11) "Remitter" means a person who purchases an instrument from its
22 issuer if the instrument is payable to an identified person other than
23 the purchaser.

24 (b) Other definitions applying to this Article and the sections in
25 which they appear are:

26

27	"Acceptance"	RCW 62A.3-409
28	"Accommodated party"	RCW 62A.3-419
29	"Accommodation party"	RCW 62A.3-419
30	"Alteration"	RCW 62A.3-407
31	"Anomalous indorsement"	RCW 62A.3-205
32	"Blank indorsement"	RCW 62A.3-205
33	"Cashier's check"	RCW 62A.3-104
34	"Certificate of deposit"	RCW 62A.3-104
35	"Certified check"	RCW 62A.3-409
36	"Check"	RCW 62A.3-104

1	"Consideration"	RCW 62A.3-303
2	"Draft"	RCW 62A.3-104
3	"Holder in due course"	RCW 62A.3-302
4	"Incomplete instrument"	RCW 62A.3-115
5	"Indorsement"	RCW 62A.3-204
6	"Indorser"	RCW 62A.3-204
7	"Instrument"	RCW 62A.3-104
8	"Issue"	RCW 62A.3-105
9	"Issuer"	RCW 62A.3-105
10	"Negotiable instrument"	RCW 62A.3-104
11	"Negotiation"	RCW 62A.3-201
12	"Note"	RCW 62A.3-104
13	"Payable at a definite time"	RCW 62A.3-108
14	"Payable on demand"	RCW 62A.3-108
15	"Payable to bearer"	RCW 62A.3-109
16	"Payable to order"	RCW 62A.3-109
17	"Payment"	RCW 62A.3-602
18	"Person entitled to enforce"	RCW 62A.3-301
19	"Presentment"	RCW 62A.3-501
20	"Reacquisition"	RCW 62A.3-207
21	"Special indorsement"	RCW 62A.3-205
22	"Teller's check"	RCW 62A.3-104
23	"Transfer of instrument"	RCW 62A.3-203
24	"Traveler's check"	RCW 62A.3-104
25	"Value"	RCW 62A.3-303

26 (c) The following definitions in other articles apply to this
27 Article:

28	("Bank"	RCW 62A.4-105)
29	"Banking day"	RCW 62A.4-104
30	"Clearing house"	RCW 62A.4-104
31	"Collecting bank"	RCW 62A.4-105
32	"Depositary bank"	RCW 62A.4-105
33	"Documentary draft"	RCW 62A.4-104
34	"Intermediary bank"	RCW 62A.4-105

1	"Item"	RCW 62A.4-104
2	"Payor bank"	RCW 62A.4-105
3	"Suspends payments"	RCW 62A.4-104

4 (d) In addition, Article 1 contains general definitions and
5 principles of construction and interpretation applicable throughout
6 this Article.

7 **PART XI**

8 **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 4**

9 **Sec. 1101.** RCW 62A.4-104 and 1995 c 48 s 56 are each amended to
10 read as follows:

11 DEFINITIONS AND INDEX OF DEFINITIONS. (a) In this Article, unless
12 the context otherwise requires:

13 (1) "Account" means any deposit or credit account with a bank,
14 including a demand, time, savings, passbook, share draft, or like
15 account, other than an account evidenced by a certificate of deposit;

16 (2) "Afternoon" means the period of a day between noon and
17 midnight;

18 (3) "Banking day" means the part of a day on which a bank is open
19 to the public for carrying on substantially all of its banking
20 functions, except that it shall not include a Saturday, Sunday, or
21 legal holiday;

22 (4) "Clearing house" means an association of banks or other payors
23 regularly clearing items;

24 (5) "Customer" means a person having an account with a bank or for
25 whom a bank has agreed to collect items, including a bank that
26 maintains an account at another bank;

27 (6) "Documentary draft" means a draft to be presented for
28 acceptance or payment if specified documents, certificated securities
29 (RCW 62A.8-102) or instructions for uncertificated securities (RCW
30 62A.8-102), or other certificates, statements, or the like are to be
31 received by the drawee or other payor before acceptance or payment of
32 the draft;

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

35 (8) "Drawee" means a person ordered in a draft to make payment;

1 (9) "Item" means an instrument or a promise or order to pay money
2 handled by a bank for collection or payment. The term does not include
3 a payment order governed by Article 4A or a credit or debit card slip;

4 (10) "Midnight deadline" with respect to a bank is midnight on its
5 next banking day following the banking day on which it receives the
6 relevant item or notice or from which the time for taking action
7 commences to run, whichever is later;

8 (11) "Settle" means to pay in cash, by clearing-house settlement,
9 in a charge or credit or by remittance, or otherwise as agreed. A
10 settlement may be either provisional or final;

11 (12) "Suspends payments" with respect to a bank means that it has
12 been closed by order of the supervisory authorities, that a public
13 officer has been appointed to take it over or that it ceases or refuses
14 to make payments in the ordinary course of business.

15 (b) Other definitions applying to this Article and the sections in
16 which they appear are:

17	"Agreement for electronic	
18	presentment"	RCW 62A.4-110.
19	"Bank"	RCW 62A.4-105.
20	"Collecting bank"	RCW 62A.4-105.
21	"Depository bank"	RCW 62A.4-105.
22	"Intermediary bank"	RCW 62A.4-105.
23	"Payor bank"	RCW 62A.4-105.
24	"Presenting bank"	RCW 62A.4-105.
25	"Presentment notice"	RCW 62A.4-110.

26 (c) "Control" as provided in RCW 62A.7-106 and the following
27 definitions in other articles apply to this Article:

28	"Acceptance"	RCW 62A.3-409.
29	"Alteration"	RCW 62A.3-407.
30	"Cashier's check"	RCW 62A.3-104.
31	"Certificate of deposit"	RCW 62A.3-104.
32	"Certified check"	RCW 62A.3-409.
33	"Check"	RCW 62A.3-104.

1	"Draft"	RCW 62A.3-104.
2	(("Good faith"	RCW 62A.3-103.)
3	"Holder in due course"	RCW 62A.3-302.
4	"Instrument"	RCW 62A.3-104.
5	"Notice of dishonor"	RCW 62A.3-503.
6	"Order"	RCW 62A.3-103.
7	"Ordinary care"	RCW 62A.3-103.
8	"Person entitled to enforce"	RCW 62A.3-301.
9	"Presentment"	RCW 62A.3-501.
10	"Promise"	RCW 62A.3-103.
11	"Prove"	RCW 62A.3-103.
12	"Teller's check"	RCW 62A.3-104.
13	"Unauthorized signature"	RCW 62A.3-403.

14 (d) In addition Article 1 contains general definitions and
15 principles of construction and interpretation applicable throughout
16 this Article.

17 **Sec. 1102.** RCW 62A.4-210 and 2001 c 32 s 13 are each amended to
18 read as follows:

19 SECURITY INTEREST OF COLLECTING BANK IN ITEMS, ACCOMPANYING
20 DOCUMENTS AND PROCEEDS. (a) A collecting bank has a security interest
21 in an item and any accompanying documents or the proceeds of either:

22 (1) In case of an item deposited in an account, to the extent to
23 which credit given for the item has been withdrawn or applied;

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

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

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

33 (c) Receipt by a collecting bank of a final settlement for an item
34 is a realization on its security interest in the item, accompanying
35 documents, and proceeds. So long as the bank does not receive final
36 settlement for the item or give up possession of the item or possession

1 or control of the accompanying documents for purposes other than
2 collection, the security interest continues to that extent and is
3 subject to Article 9A, but:

- 4 (1) No security agreement is necessary to make the security
5 interest enforceable (RCW 62A.9A-203(b)(3)(A));
- 6 (2) No filing is required to perfect the security interest; and
- 7 (3) The security interest has priority over conflicting perfected
8 security interests in the item, accompanying documents, or proceeds.

9 **PART XII**
10 **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 4A**

11 **Sec. 1201.** RCW 62A.4A-105 and 1991 sp.s. c 21 s 4A-105 are each
12 amended to read as follows:

13 OTHER DEFINITIONS. (1) In this Article:

14 (a) "Authorized account" means a deposit account of a customer in
15 a bank designated by the customer as a source of payment orders issued
16 by the customer to the bank. If a customer does not so designate an
17 account, any account of the customer is an authorized account if
18 payment of a payment order from that account is not inconsistent with
19 a restriction on the use of the account.

20 (b) "Bank" means a person engaged in the business of banking and
21 includes a savings bank, savings and loan association, credit union,
22 and trust company. A branch or separate office of a bank is a separate
23 bank for purposes of this Article.

24 (c) "Customer" means a person, including a bank, having an account
25 with a bank or from whom a bank has agreed to receive payment orders.

26 (d) "Funds-transfer business day" of a receiving bank means the
27 part of a day during which the receiving bank is open for the receipt,
28 processing, and transmittal of payment orders and cancellations and
29 amendments of payment orders.

30 (e) "Funds-transfer system" means a wire transfer network,
31 automated clearing house, or other communication system of a clearing
32 house or other association of banks through which a payment order by a
33 bank may be transmitted to the bank to which the order is addressed.

34 (f) (~~"Good faith" means honesty in fact and the observance of~~
35 ~~reasonable commercial standards of fair dealing.~~) [Reserved.]

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

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

5	"Acceptance"	RCW 62A.4A-209
6	"Beneficiary"	RCW 62A.4A-103
7	"Beneficiary's bank"	RCW 62A.4A-103
8	"Executed"	RCW 62A.4A-301
9	"Execution date"	RCW 62A.4A-301
10	"Funds transfer"	RCW 62A.4A-104
11	"Funds-transfer system rule"	RCW 62A.4A-501
12	"Intermediary bank"	RCW 62A.4A-104
13	"Originator"	RCW 62A.4A-104
14	"Originator's bank"	RCW 62A.4A-104
15	"Payment by beneficiary's bank to beneficiary"	RCW 62A.4A-405
16	"Payment by originator to beneficiary"	RCW 62A.4A-406
17	"Payment by sender to receiving bank"	RCW 62A.4A-403
18	"Payment date"	RCW 62A.4A-401
19	"Payment order"	RCW 62A.4A-103
20	"Receiving bank"	RCW 62A.4A-103
21	"Security procedure"	RCW 62A.4A-201
22	"Sender"	RCW 62A.4A-103

23 (3) The following definitions in Article 4 (RCW 62A.4-101 through
24 62A.4-504) apply to this Article:

25	"Clearing house"	((section 4-104 of this act)) <u>RCW 62A.4-104</u>
26	"Item"	((section 4-104 of this act)) <u>RCW 62A.4-104</u>
27	"Suspends payments"	((section 4-104 of this act)) <u>RCW 62A.4-104</u>

1 (4) In addition ~~((to))~~, Article 1 ~~((RCW 62A.1-101 through~~
2 ~~62A.1-208))~~ contains general definitions and principles of
3 construction and interpretation applicable throughout this Article.

4 **Sec. 1202.** RCW 62A.4A-106 and 1991 sp.s. c 21 s 4A-106 are each
5 amended to read as follows:

6 TIME PAYMENT ORDER IS RECEIVED. (1) The time of receipt of a
7 payment order or communication canceling or amending a payment order is
8 determined by the rules applicable to receipt of a notice stated in
9 ~~((RCW 62A.1-201(27))~~) RCW 62A.1-202. A receiving bank may fix a cut-
10 off time or times on a funds-transfer business day for the receipt and
11 processing of payment orders and communications canceling or amending
12 payment orders. Different cut-off times may apply to payment orders,
13 cancellations, or amendments, or to different categories of payment
14 orders, cancellations, or amendments. A cut-off time may apply to
15 senders generally or different cut-off times may apply to different
16 senders or categories of payment orders. If a payment order or
17 communication canceling or amending a payment order is received after
18 the close of a funds-transfer business day or after the appropriate
19 cut-off time on a funds-transfer business day, the receiving bank may
20 treat the payment order or communication as received at the opening of
21 the next funds-transfer business day.

22 (2) If this Article refers to an execution date or payment date or
23 states a day on which a receiving bank is required to take action, and
24 the date or day does not fall on a funds-transfer business day, the
25 next day that is a funds-transfer business day is treated as the date
26 or day stated, unless the contrary is stated in this Article.

27 **Sec. 1203.** RCW 62A.4A-204 and 1991 sp.s. c 21 s 4A-204 are each
28 amended to read as follows:

29 REFUND OF PAYMENT AND DUTY OF CUSTOMER TO REPORT WITH RESPECT TO
30 UNAUTHORIZED PAYMENT ORDER. (1) If a receiving bank accepts a payment
31 order issued in the name of its customer as sender which is (a) not
32 authorized and not effective as the order of the customer under RCW
33 62A.4A-202, or (b) not enforceable, in whole or in part, against the
34 customer under RCW 62A.4A-203, the bank shall refund any payment of the
35 payment order received from the customer to the extent the bank is not
36 entitled to enforce payment and shall pay interest on the refundable

1 amount calculated from the date the bank received payment to the date
2 of the refund. However, the customer is not entitled to interest from
3 the bank on the amount to be refunded if the customer fails to exercise
4 ordinary care to determine that the order was not authorized by the
5 customer and to notify the bank of the relevant facts within a
6 reasonable time not exceeding ninety days after the date the customer
7 received notification from the bank that the order was accepted or that
8 the customer's account was debited with respect to the order. The bank
9 is not entitled to any recovery from the customer on account of a
10 failure by the customer to give notification as stated in this section.

11 (2) Reasonable time under subsection (1) of this section may be
12 fixed by agreement as stated in (~~RCW 62A.1-204(1)~~) RCW 62A.1-302(b),
13 but the obligation of a receiving bank to refund payment as stated in
14 subsection (1) of this section may not otherwise be varied by
15 agreement.

16 PART XIII

17 AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 5

18 **Sec. 1301.** RCW 62A.5-103 and 1997 c 56 s 4 are each amended to
19 read as follows:

20 SCOPE. (~~(1)~~) (a) This Article applies to letters of credit and
21 to certain rights and obligations arising out of transactions involving
22 letters of credit.

23 (~~(2)~~) (b) The statement of a rule in this Article does not by
24 itself require, imply, or negate application of the same or a different
25 rule to a situation not provided for, or to a person not specified, in
26 this Article.

27 (~~(3)~~) (c) With the exception of this subsection, subsections
28 (~~(1)~~) (a) and (~~(4)~~) (d) of this section, RCW 62A.5-102(~~(1)~~~~(i)~~)
29 (a) (9) and (~~(j)~~) (10), 62A.5-106(~~(4)~~) (d), and 62A.5-114(~~(4)~~)
30 (d), and except to the extent prohibited in (~~RCW 62A.1-102(3)~~) RCW
31 62A.1-302 and 62A.5-117(~~(4)~~) (d), the effect of this Article may be
32 varied by agreement or by a provision stated or incorporated by
33 reference in an undertaking. A term in an agreement or undertaking
34 generally excusing liability or generally limiting remedies for failure
35 to perform obligations is not sufficient to vary obligations prescribed
36 by this Article.

1 (ii) Transmit information by any mechanism agreed upon by the
2 persons transmitting and receiving the information.

3 (g) "Entitlement holder" means a person identified in the records
4 of a securities intermediary as the person having a security
5 entitlement against the securities intermediary. If a person acquires
6 a security entitlement by virtue of RCW 62A.8-501(2) (b) or (c), that
7 person is the entitlement holder.

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

11 (i) "Financial asset," except as otherwise provided in RCW 62A.8-
12 103, means:

13 (i) A security;

14 (ii) An obligation of a person or a share, participation, or other
15 interest in a person or in property or an enterprise of a person, which
16 is, or is of a type, dealt in or traded on financial markets, or which
17 is recognized in any area in which it is issued or dealt in as a medium
18 for investment; or

19 (iii) Any property that is held by a securities intermediary for
20 another person in a securities account if the securities intermediary
21 has expressly agreed with the other person that the property is to be
22 treated as a financial asset under this Article.

23 As context requires, the term means either the interest itself or the
24 means by which a person's claim to it is evidenced, including a
25 certificated or uncertificated security, a security certificate, or a
26 security entitlement.

27 (j) (~~"Good faith," for purposes of the obligation of good faith in~~
28 ~~the performance or enforcement of contracts or duties within this~~
29 ~~Article, means honesty in fact and the observance of reasonable~~
30 ~~commercial standards of fair dealing.)) [Reserved.]~~

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

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

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

3 (i) The security certificate specifies a person entitled to the
4 security; and

5 (ii) A transfer of the security may be registered upon books
6 maintained for that purpose by or on behalf of the issuer, or the
7 security certificate so states.

8 (n) "Securities intermediary" means:

9 (i) A clearing corporation; or

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

13 (o) "Security," except as otherwise provided in RCW 62A.8-103,
14 means an obligation of an issuer or a share, participation, or other
15 interest in an issuer or in property or an enterprise of an issuer:

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

19 (ii) Which is one of a class or series or by its terms is divisible
20 into a class or series of shares, participations, interests, or
21 obligations; and

22 (iii) Which:

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

25 (B) Is a medium for investment and by its terms expressly provides
26 that it is a security governed by this Article.

27 (p) "Security certificate" means a certificate representing a
28 security.

29 (q) "Security entitlement" means the rights and property interest
30 of an entitlement holder with respect to a financial asset specified in
31 Part 5 of this Article.

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

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

1	Appropriate person	RCW 62A.8-107
2	Control	RCW 62A.8-106
3	Delivery	RCW 62A.8-301
4	Investment company	RCW 62A.8-103
5	security	
6	Issuer	RCW 62A.8-201
7	Overissue	RCW 62A.8-210
8	Protected purchaser	RCW 62A.8-303
9	Securities account	RCW 62A.8-501

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

13 (4) The characterization of a person, business, or transaction for
14 purposes of this Article does not determine the characterization of the
15 person, business, or transaction for purposes of any other law,
16 regulation, or rule.

17 **Sec. 1402.** RCW 62A.8-103 and 2000 c 250 s 9A-815 are each amended
18 to read as follows:

19 RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE
20 SECURITIES OR FINANCIAL ASSETS. (1) A share or similar equity interest
21 issued by a corporation, business trust, joint stock company, or
22 similar entity is a security.

23 (2) An "investment company security" is a security. "Investment
24 company security" means a share or similar equity interest issued by an
25 entity that is registered as an investment company under the federal
26 investment company laws, an interest in a unit investment trust that is
27 so registered, or a face-amount certificate issued by a face-amount
28 certificate company that is so registered. Investment company security
29 does not include an insurance policy or endowment policy or annuity
30 contract issued by an insurance company.

31 (3) An interest in a partnership or limited liability company is
32 not a security unless it is dealt in or traded on securities exchanges
33 or in securities markets, its terms expressly provide that it is a

1 security governed by this Article, or it is an investment company
2 security. However, an interest in a partnership or limited liability
3 company is a financial asset if it is held in a securities account.

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

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

12 (6) A commodity contract, as defined in RCW 62A.9A-102(a)(15), is
13 not a security or a financial asset.

14 (7) A document of title is not a financial asset unless RCW 62A.8-
15 102(1)(i)(iii) applies.

16 **Sec. 1403.** RCW 62A.8-103 and 2011 c 74 s 706 are each amended to
17 read as follows:

18 RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE
19 SECURITIES OR FINANCIAL ASSETS. (1) A share or similar equity interest
20 issued by a corporation, business trust, joint stock company, or
21 similar entity is a security.

22 (2) An "investment company security" is a security. "Investment
23 company security" means a share or similar equity interest issued by an
24 entity that is registered as an investment company under the federal
25 investment company laws, an interest in a unit investment trust that is
26 so registered, or a face-amount certificate issued by a face-amount
27 certificate company that is so registered. Investment company security
28 does not include an insurance policy or endowment policy or annuity
29 contract issued by an insurance company.

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

36 (4) A writing that is a security certificate is governed by this
37 Article and not by Article 3, even though it also meets the

1 requirements of that Article. However, a negotiable instrument
2 governed by Article 3 is a financial asset if it is held in a
3 securities account.

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

7 (6) A commodity contract, as defined in RCW 62A.9A-102, is not a
8 security or a financial asset.

9 (7) A document of title is not a financial asset unless RCW 62A.8-
10 102(1)(i)(iii) applies.

11 **PART XV**

12 **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 9A**

13 **Sec. 1501.** RCW 62A.9A-102 and 2001 c 32 s 16 are each amended to
14 read as follows:

15 DEFINITIONS AND INDEX OF DEFINITIONS. (a) **Article 9A definitions.**

16 In this Article:

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

20 (2)(A) "Account," except as used in "account for," means a right to
21 payment of a monetary obligation, whether or not earned by performance,
22 (i) for property that has been or is to be sold, leased, licensed,
23 assigned, or otherwise disposed of, (ii) for services rendered or to be
24 rendered, (iii) for a policy of insurance issued or to be issued, (iv)
25 for a secondary obligation incurred or to be incurred, (v) for energy
26 provided or to be provided, (vi) for the use or hire of a vessel under
27 a charter or other contract, (vii) arising out of the use of a credit
28 or charge card or information contained on or for use with the card, or
29 (viii) as winnings in a lottery or other game of chance operated or
30 sponsored by a state, governmental unit of a state, or person licensed
31 or authorized to operate the game by a state or governmental unit of a
32 state. The term includes health-care-insurance receivables.

33 (B) The term does not include (i) rights to payment evidenced by
34 chattel paper or an instrument, (ii) commercial tort claims, (iii)
35 deposit accounts, (iv) investment property, (v) letter-of-credit rights

1 or letters of credit, or (vi) rights to payment for money or funds
2 advanced or sold, other than rights arising out of the use of a credit
3 or charge card or information contained on or for use with the card.

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

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

10 (A) Authenticated by a secured party;

11 (B) Indicating the aggregate unpaid secured obligations as of a
12 date not more than thirty-five days earlier or thirty-five days later
13 than the date of the record; and

14 (C) Identifying the components of the obligations in reasonable
15 detail.

16 (5) "Agricultural lien" means an interest, other than a security
17 interest, in farm products:

18 (A) Which secures payment or performance of an obligation for:

19 (i) Goods or services furnished in connection with a debtor's
20 farming operation; or

21 (ii) Rent on real property leased by a debtor in connection with
22 its farming operation;

23 (B) Which is created by statute in favor of a person that:

24 (i) In the ordinary course of its business, furnished goods or
25 services to a debtor in connection with a debtor's farming operation;
26 or

27 (ii) Leased real property to a debtor in connection with the
28 debtor's farming operation; and

29 (C) Whose effectiveness does not depend on the person's possession
30 of the personal property.

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

32 (A) Oil, gas, or other minerals that are subject to a security
33 interest that:

34 (i) Is created by a debtor having an interest in the minerals
35 before extraction; and

36 (ii) Attaches to the minerals as extracted; or

37 (B) Accounts arising out of the sale at the wellhead or minehead of

1 oil, gas, or other minerals in which the debtor had an interest before
2 extraction.

3 (7) "Authenticate" means:

4 (A) To sign; or

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

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

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

14 (10) "Certificate of title" means a certificate of title with
15 respect to which a statute provides for the security interest in
16 question to be indicated on the certificate as a condition or result of
17 the security interest's obtaining priority over the rights of a lien
18 creditor with respect to the collateral.

19 (11) "Chattel paper" means a record or records that evidence both
20 a monetary obligation and a security interest in specific goods, a
21 security interest in specific goods and software used in the goods, a
22 security interest in specific goods and license of software used in the
23 goods, a lease of specific goods, or a lease of specific goods and
24 license of software used in the goods. In this subsection, "monetary
25 obligation" means a monetary obligation secured by the goods or owed
26 under a lease of the goods and includes a monetary obligation with
27 respect to software used in the goods. The term "chattel paper" does
28 not include (~~(A)~~) (i) charters or other contracts involving the use
29 or hire of a vessel or (~~(B)~~) (ii) records that evidence a right to
30 payment arising out of the use of a credit or charge card or
31 information contained on or for use with the card. If a transaction is
32 evidenced by records that include an instrument or series of
33 instruments, the group of records taken together constitutes chattel
34 paper.

35 (12) "Collateral" means the property subject to a security interest
36 or agricultural lien. The term includes:

37 (A) Proceeds to which a security interest attaches;

1 (B) Accounts, chattel paper, payment intangibles, and promissory
2 notes that have been sold; and
3 (C) Goods that are the subject of a consignment.

4 (13) "Commercial tort claim" means a claim arising in tort with
5 respect to which:
6 (A) The claimant is an organization; or
7 (B) The claimant is an individual, and the claim:
8 (i) Arose in the course of the claimant's business or profession;
9 and
10 (ii) Does not include damages arising out of personal injury to, or
11 the death of, an individual.

12 (14) "Commodity account" means an account maintained by a commodity
13 intermediary in which a commodity contract is carried for a commodity
14 customer.

15 (15) "Commodity contract" means a commodity futures contract, an
16 option on a commodity futures contract, a commodity option, or another
17 contract if the contract or option is:
18 (A) Traded on or subject to the rules of a board of trade that has
19 been designated as a contract market for such a contract pursuant to
20 federal commodities laws; or
21 (B) Traded on a foreign commodity board of trade, exchange, or
22 market, and is carried on the books of a commodity intermediary for a
23 commodity customer.

24 (16) "Commodity customer" means a person for which a commodity
25 intermediary carries a commodity contract on its books.

26 (17) "Commodity intermediary" means a person that:
27 (A) Is registered as a futures commission merchant under federal
28 commodities law; or
29 (B) In the ordinary course of its business, provides clearance or
30 settlement services for a board of trade that has been designated as a
31 contract market pursuant to federal commodities law.

32 (18) "Communicate" means:
33 (A) To send a written or other tangible record;
34 (B) To transmit a record by any means agreed upon by the persons
35 sending and receiving the record; or
36 (C) In the case of transmission of a record to or by a filing
37 office, to transmit a record by any means prescribed by filing-office
38 rule.

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

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

6 (A) The merchant:

7 (i) Deals in goods of that kind under a name other than the name of
8 the person making delivery;

9 (ii) Is not an auctioneer; and

10 (iii) Is not generally known by its creditors to be substantially
11 engaged in selling the goods of others;

12 (B) With respect to each delivery, the aggregate value of the goods
13 is one thousand dollars or more at the time of delivery;

14 (C) The goods are not consumer goods immediately before delivery;
15 and

16 (D) The transaction does not create a security interest that
17 secures an obligation.

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

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

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

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

25 (A) An individual incurs a consumer obligation; and

26 (B) A security interest in consumer goods secures the obligation.

27 (25) "Consumer obligation" means an obligation which:

28 (A) Is incurred as part of a transaction entered into primarily for
29 personal, family, or household purposes; and

30 (B) Arises from an extension of credit, or commitment to extend
31 credit, in an aggregate amount not exceeding forty thousand dollars, or
32 is secured by personal property used or expected to be used as a
33 principal dwelling.

34 "Consumer obligor" means an obligor who is an individual and who
35 incurred a consumer obligation.

36 (26) "Consumer transaction" means a transaction in which (~~(A)~~)
37 (i) an individual incurs a consumer obligation, (~~(B)~~) (ii) a security

1 interest secures the obligation, and ~~((C))~~ (iii) the collateral is
2 held or acquired primarily for personal, family, or household purposes.
3 The term includes consumer-goods transactions.

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

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

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

11 (28) "Debtor" means:

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

14 (B) A seller of accounts, chattel paper, payment intangibles, or
15 promissory notes; or

16 (C) A consignee.

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

20 (30) "Document" means a document of title or a receipt of the type
21 described in RCW 62A.7-201~~((+2))~~ (b).

22 (31) "Electronic chattel paper" means chattel paper evidenced by a
23 record or records consisting of information stored in an electronic
24 medium.

25 (32) "Encumbrance" means a right, other than an ownership interest,
26 in real property. The term includes mortgages and other liens on real
27 property.

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

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

33 (A) Crops grown, growing, or to be grown, including:

34 (i) Crops produced on trees, vines, and bushes; and

35 (ii) Aquatic goods produced in aquacultural operations;

36 (B) Livestock, born or unborn, including aquatic goods produced in
37 aquacultural operations;

38 (C) Supplies used or produced in a farming operation; or

1 (D) Products of crops or livestock in their unmanufactured states.
2 (35) "Farming operation" means raising, cultivating, propagating,
3 fattening, grazing, or any other farming, livestock, or aquacultural
4 operation.
5 (36) "File number" means the number assigned to an initial
6 financing statement pursuant to RCW 62A.9A-519(a).
7 (37) "Filing office" means an office designated in RCW 62A.9A-501
8 as the place to file a financing statement.
9 (38) "Filing-office rule" means a rule adopted pursuant to RCW
10 62A.9A-526.
11 (39) "Financing statement" means a record or records composed of an
12 initial financing statement and any filed record relating to the
13 initial financing statement.
14 (40) "Fixture filing" means the filing of a financing statement
15 covering goods that are or are to become fixtures and satisfying RCW
16 62A.9A-502 (a) and (b). The term includes the filing of a financing
17 statement covering goods of a transmitting utility which are or are to
18 become fixtures.
19 (41) "Fixtures" means goods that have become so related to
20 particular real property that an interest in them arises under real
21 property law.
22 (42) "General intangible" means any personal property, including
23 things in action, other than accounts, chattel paper, commercial tort
24 claims, deposit accounts, documents, goods, instruments, investment
25 property, letter-of-credit rights, letters of credit, money, and oil,
26 gas, or other minerals before extraction. The term includes payment
27 intangibles and software.
28 (43) (~~("Good faith" means honesty in fact and the observance of~~
29 ~~reasonable commercial standards of fair dealing.))~~ [Reserved.]
30 (44) "Goods" means all things that are movable when a security
31 interest attaches. The term includes ~~((A))~~ (i) fixtures, ~~((B))~~
32 (ii) standing timber that is to be cut and removed under a conveyance
33 or contract for sale, ~~((C))~~ (iii) the unborn young of animals,
34 ~~((D))~~ (iv) crops grown, growing, or to be grown, even if the crops
35 are produced on trees, vines, or bushes, and ~~((E))~~ (v) manufactured
36 homes. The term also includes a computer program embedded in goods and
37 any supporting information provided in connection with a transaction
38 relating to the program if (i) the program is associated with the goods

1 in such a manner that it customarily is considered part of the goods,
2 or (ii) by becoming the owner of the goods, a person acquires a right
3 to use the program in connection with the goods. The term does not
4 include a computer program embedded in goods that consist solely of the
5 medium in which the program is embedded. The term also does not
6 include accounts, chattel paper, commercial tort claims, deposit
7 accounts, documents, general intangibles, instruments, investment
8 property, letter-of-credit rights, letters of credit, money, or oil,
9 gas, or other minerals before extraction or a manufactured home
10 converted to real property under chapter 65.20 RCW.

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

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

20 (47) "Instrument" means a negotiable instrument or any other
21 writing that evidences a right to the payment of a monetary obligation,
22 is not itself a security agreement or lease, and is of a type that in
23 ordinary course of business is transferred by delivery with any
24 necessary indorsement or assignment. The term does not include ~~((A))~~
25 (i) investment property, ~~((B))~~ (ii) letters of credit, ~~((C))~~ (iii)
26 writings that evidence a right to payment arising out of the use of a
27 credit or charge card or information contained on or for use with the
28 card, ~~((D))~~ (iv) writings that do not contain a promise or order to
29 pay, or ~~((E))~~ (v) writings that are expressly nontransferable or
30 nonassignable.

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

32 (A) Are leased by a person as lessor;

33 (B) Are held by a person for sale or lease or to be furnished under
34 a contract of service;

35 (C) Are furnished by a person under a contract of service; or

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

1 (49) "Investment property" means a security, whether certificated
2 or uncertificated, security entitlement, securities account, commodity
3 contract, or commodity account.

4 (50) "Jurisdiction of organization," with respect to a registered
5 organization, means the jurisdiction under whose law the organization
6 is organized.

7 (51) "Letter-of-credit right" means a right to payment or
8 performance under a letter of credit, whether or not the beneficiary
9 has demanded or is at the time entitled to demand payment or
10 performance. The term does not include the right of a beneficiary to
11 demand payment or performance under a letter of credit.

12 (52) "Lien creditor" means:

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

15 (B) An assignee for benefit of creditors from the time of
16 assignment;

17 (C) A trustee in bankruptcy from the date of the filing of the
18 petition; or

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

20 (53) "Manufactured home" means a manufactured home or mobile home
21 as defined in RCW 46.04.302.

22 (54) [Reserved]

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

26 (56) "New debtor" means a person that becomes bound as debtor under
27 RCW 62A.9A-203(d) by a security agreement previously entered into by
28 another person.

29 (57) "New value" means ~~((A))~~ (i) money, ~~((B))~~ (ii) money's
30 worth in property, services, or new credit, or ~~((C))~~ (iii) release by
31 a transferee of an interest in property previously transferred to the
32 transferee. The term does not include an obligation substituted for
33 another obligation.

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

35 (59) "Obligor" means a person that, with respect to an obligation
36 secured by a security interest in or an agricultural lien on the
37 collateral, ~~((A))~~ (i) owes payment or other performance of the
38 obligation, ~~((B))~~ (ii) has provided property other than the

1 collateral to secure payment or other performance of the obligation, or
2 (~~(C)~~) (iii) is otherwise accountable in whole or in part for payment
3 or other performance of the obligation. The term does not include
4 issuers or nominated persons under a letter of credit.

5 (60) "Original debtor", except as used in RCW 62A.9A-310(c), means
6 a person that, as debtor, entered into a security agreement to which a
7 new debtor has become bound under RCW 62A.9A-203(d).

8 (61) "Payment intangible" means a general intangible under which
9 the account debtor's principal obligation is a monetary obligation.

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

11 (A) The spouse of the individual;

12 (B) A brother, brother-in-law, sister, or sister-in-law of the
13 individual;

14 (C) An ancestor or lineal descendant of the individual or the
15 individual's spouse; or

16 (D) Any other relative, by blood or marriage, of the individual or
17 the individual's spouse who shares the same home with the individual.

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

19 (A) A person directly or indirectly controlling, controlled by, or
20 under common control with the organization;

21 (B) An officer or director of, or a person performing similar
22 functions with respect to, the organization;

23 (C) An officer or director of, or a person performing similar
24 functions with respect to, a person described in (63)(A) of this
25 subsection;

26 (D) The spouse of an individual described in (63)(A), (B), or (C)
27 of this subsection; or

28 (E) An individual who is related by blood or marriage to an
29 individual described in (63)(A), (B), (C), or (D) of this subsection
30 and shares the same home with the individual.

31 (64) "Proceeds", except as used in RCW 62A.9A-609(b), means the
32 following property:

33 (A) Whatever is acquired upon the sale, lease, license, exchange,
34 or other disposition of collateral;

35 (B) Whatever is collected on, or distributed on account of,
36 collateral;

37 (C) Rights arising out of collateral;

1 (D) To the extent of the value of collateral, claims arising out of
2 the loss, nonconformity, or interference with the use of, defects or
3 infringement of rights in, or damage to, the collateral; or

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

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

12 (66) "Proposal" means a record authenticated by a secured party,
13 which includes the terms on which the secured party is willing to
14 accept collateral in full or partial satisfaction of the obligation it
15 secures pursuant to RCW 62A.9A-620, 62A.9A-621, and 62A.9A-622.

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

18 (A) Debt securities are issued;

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

21 (C) The debtor, obligor, secured party, account debtor or other
22 person obligated on collateral, assignor or assignee of a secured
23 obligation, or assignor or assignee of a security interest is a state
24 or a governmental unit of a state.

25 (68) "Pursuant to commitment," with respect to an advance made or
26 other value given by a secured party, means pursuant to the secured
27 party's obligation, whether or not a subsequent event of default or
28 other event not within the secured party's control has relieved or may
29 relieve the secured party from its obligation.

30 (69) "Record," except as used in "for record," "of record," "record
31 or legal title," and "record owner," means information that is
32 inscribed on a tangible medium or which is stored in an electronic or
33 other medium and is retrievable in perceivable form.

34 (70) "Registered organization" means an organization organized
35 solely under the law of a single state or the United States and as to
36 which the state or the United States must maintain a public record
37 showing the organization to have been organized.

38 (71) "Secondary obligor" means an obligor to the extent that:

1 (A) The obligor's obligation is secondary; or
2 (B) The obligor has a right of recourse with respect to an
3 obligation secured by collateral against the debtor, another obligor,
4 or property of either.

5 (72) "Secured party" means:
6 (A) A person in whose favor a security interest is created or
7 provided for under a security agreement, whether or not any obligation
8 to be secured is outstanding;
9 (B) A person that holds an agricultural lien;
10 (C) A consignor;
11 (D) A person to which accounts, chattel paper, payment intangibles,
12 or promissory notes have been sold;
13 (E) A trustee, indenture trustee, agent, collateral agent, or other
14 representative in whose favor a security interest or agricultural lien
15 is created or provided for; or
16 (F) A person that holds a security interest arising under RCW
17 62A.2-401, 62A.2-505, 62A.2-711(3), 62A.2A-508(5), 62A.4-210, or 62A.5-
18 118.

19 (73) "Security agreement" means an agreement that creates or
20 provides for a security interest.

21 (74) "Send," in connection with a record or notification, means:
22 (A) To deposit in the mail, deliver for transmission, or transmit
23 by any other usual means of communication, with postage or cost of
24 transmission provided for, addressed to any address reasonable under
25 the circumstances; or
26 (B) To cause the record or notification to be received within the
27 time that it would have been received if properly sent under (A) of
28 this subsection.

29 (75) "Software" means a computer program and any supporting
30 information provided in connection with a transaction relating to the
31 program. The term does not include a computer program that is included
32 in the definition of goods.

33 (76) "State" means a state of the United States, the District of
34 Columbia, Puerto Rico, the United States Virgin Islands, or any
35 territory or insular possession subject to the jurisdiction of the
36 United States.

37 (77) "Supporting obligation" means a letter-of-credit right or

1 secondary obligation that supports the payment or performance of an
2 account, chattel paper, a document, a general intangible, an
3 instrument, or investment property.

4 (78) "Tangible chattel paper" means chattel paper evidenced by a
5 record or records consisting of information that is inscribed on a
6 tangible medium.

7 (79) "Termination statement" means an amendment of a financing
8 statement which:

9 (A) Identifies, by its file number, the initial financing statement
10 to which it relates; and

11 (B) Indicates either that it is a termination statement or that the
12 identified financing statement is no longer effective.

13 (80) "Transmitting utility" means a person primarily engaged in the
14 business of:

15 (A) Operating a railroad, subway, street railway, or trolley bus;

16 (B) Transmitting communications electrically, electromagnetically,
17 or by light;

18 (C) Transmitting goods by pipeline or sewer; or

19 (D) Transmitting or producing and transmitting electricity, steam,
20 gas, or water.

21 (b) **Definitions in other articles.** "Control" as provided in RCW
22 62A.7-106 and the following definitions in other articles apply to this
23 Article:

24	"Applicant."	RCW 62A.5-102.
25	"Beneficiary."	RCW 62A.5-102.
26	"Broker."	RCW 62A.8-102.
27	"Certificated security."	RCW 62A.8-102.
28	"Check."	RCW 62A.3-104.
29	"Clearing corporation."	RCW 62A.8-102.
30	"Contract for sale."	RCW 62A.2-106.
31	"Customer."	RCW 62A.4-104.
32	"Entitlement holder."	RCW 62A.8-102.
33	"Financial asset."	RCW 62A.8-102.
34	"Holder in due course."	RCW 62A.3-302.
35	<u>"Issuer" with respect to</u>	
36	<u>documents of title.</u>	<u>RCW 62A.7-102.</u>

1	"Issuer" with respect to a	
2	letter of credit or letter-	
3	of-credit right.	RCW 62A.5-102.
4	"Issuer" with respect to a	
5	security.	RCW 62A.8-201.
6	"Lease."	RCW 62A.2A-103.
7	"Lease agreement."	RCW 62A.2A-103.
8	"Lease contract."	RCW 62A.2A-103.
9	"Leasehold interest."	RCW 62A.2A-103.
10	"Lessee."	RCW 62A.2A-103.
11	"Lessee in ordinary course	
12	of business."	RCW 62A.2A-103.
13	"Lessor."	RCW 62A.2A-103.
14	"Lessor's residual interest."	RCW 62A.2A-103.
15	"Letter of credit."	RCW 62A.5-102.
16	"Merchant."	RCW 62A.2-104.
17	"Negotiable instrument."	RCW 62A.3-104.
18	"Nominated person."	RCW 62A.5-102.
19	"Note."	RCW 62A.3-104.
20	"Proceeds of a letter of	
21	credit."	RCW 62A.5-114.
22	"Prove."	RCW 62A.3-103.
23	"Sale."	RCW 62A.2-106.
24	"Securities account."	RCW 62A.8-501.
25	"Securities intermediary."	RCW 62A.8-102.
26	"Security."	RCW 62A.8-102.
27	"Security certificate."	RCW 62A.8-102.
28	"Security entitlement."	RCW 62A.8-102.
29	"Uncertificated security."	RCW 62A.8-102.

30 (c) **Article 1 definitions and principles.** Article 1 contains
31 general definitions and principles of construction and interpretation
32 applicable throughout this Article.

33 **Sec. 1502.** RCW 62A.9A-102 and 2011 c 74 s 101 are each amended to
34 read as follows:

35 DEFINITIONS AND INDEX OF DEFINITIONS. (a) **Article 9A definitions.**
36 In this Article:

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

4 (2)(A) "Account," except as used in "account for," means a right to
5 payment of a monetary obligation, whether or not earned by performance,
6 (i) for property that has been or is to be sold, leased, licensed,
7 assigned, or otherwise disposed of, (ii) for services rendered or to be
8 rendered, (iii) for a policy of insurance issued or to be issued, (iv)
9 for a secondary obligation incurred or to be incurred, (v) for energy
10 provided or to be provided, (vi) for the use or hire of a vessel under
11 a charter or other contract, (vii) arising out of the use of a credit
12 or charge card or information contained on or for use with the card, or
13 (viii) as winnings in a lottery or other game of chance operated or
14 sponsored by a state, governmental unit of a state, or person licensed
15 or authorized to operate the game by a state or governmental unit of a
16 state. The term includes health-care-insurance receivables.

17 (B) The term does not include (i) rights to payment evidenced by
18 chattel paper or an instrument, (ii) commercial tort claims, (iii)
19 deposit accounts, (iv) investment property, (v) letter-of-credit rights
20 or letters of credit, or (vi) rights to payment for money or funds
21 advanced or sold, other than rights arising out of the use of a credit
22 or charge card or information contained on or for use with the card.

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

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

29 (A) Authenticated by a secured party;

30 (B) Indicating the aggregate unpaid secured obligations as of a
31 date not more than thirty-five days earlier or thirty-five days later
32 than the date of the record; and

33 (C) Identifying the components of the obligations in reasonable
34 detail.

35 (5) "Agricultural lien" means an interest, other than a security
36 interest, in farm products:

37 (A) Which secures payment or performance of an obligation for:

1 (i) Goods or services furnished in connection with a debtor's
2 farming operation; or
3 (ii) Rent on real property leased by a debtor in connection with
4 its farming operation;
5 (B) Which is created by statute in favor of a person that:
6 (i) In the ordinary course of its business, furnished goods or
7 services to a debtor in connection with a debtor's farming operation;
8 or
9 (ii) Leased real property to a debtor in connection with the
10 debtor's farming operation; and
11 (C) Whose effectiveness does not depend on the person's possession
12 of the personal property.
13 (6) "As-extracted collateral" means:
14 (A) Oil, gas, or other minerals that are subject to a security
15 interest that:
16 (i) Is created by a debtor having an interest in the minerals
17 before extraction; and
18 (ii) Attaches to the minerals as extracted; or
19 (B) Accounts arising out of the sale at the wellhead or minehead of
20 oil, gas, or other minerals in which the debtor had an interest before
21 extraction.
22 (7) "Authenticate" means:
23 (A) To sign; or
24 (B) With present intent to adopt or accept a record, to attach to
25 or logically associate with the record an electronic sound, symbol, or
26 process.
27 (8) "Bank" means an organization that is engaged in the business of
28 banking. The term includes savings banks, savings and loan
29 associations, credit unions, and trust companies.
30 (9) "Cash proceeds" means proceeds that are money, checks, deposit
31 accounts, or the like.
32 (10) "Certificate of title" means a certificate of title with
33 respect to which a statute provides for the security interest in
34 question to be indicated on the certificate as a condition or result of
35 the security interest's obtaining priority over the rights of a lien
36 creditor with respect to the collateral. The term includes another
37 record maintained as an alternative to a certificate of title by the
38 governmental unit that issues certificates of title if a statute

1 permits the security interest in question to be indicated on the record
2 as a condition or result of the security interest's obtaining priority
3 over the rights of a lien creditor with respect to the collateral.

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

20 (12) "Collateral" means the property subject to a security interest
21 or agricultural lien. The term includes:

22 (A) Proceeds to which a security interest attaches;

23 (B) Accounts, chattel paper, payment intangibles, and promissory
24 notes that have been sold; and

25 (C) Goods that are the subject of a consignment.

26 (13) "Commercial tort claim" means a claim arising in tort with
27 respect to which:

28 (A) The claimant is an organization; or

29 (B) The claimant is an individual, and the claim:

30 (i) Arose in the course of the claimant's business or profession;
31 and

32 (ii) Does not include damages arising out of personal injury to, or
33 the death of, an individual.

34 (14) "Commodity account" means an account maintained by a commodity
35 intermediary in which a commodity contract is carried for a commodity
36 customer.

37 (15) "Commodity contract" means a commodity futures contract, an

1 option on a commodity futures contract, a commodity option, or another
2 contract if the contract or option is:

3 (A) Traded on or subject to the rules of a board of trade that has
4 been designated as a contract market for such a contract pursuant to
5 federal commodities laws; or

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

9 (16) "Commodity customer" means a person for which a commodity
10 intermediary carries a commodity contract on its books.

11 (17) "Commodity intermediary" means a person that:

12 (A) Is registered as a futures commission merchant under federal
13 commodities law; or

14 (B) In the ordinary course of its business, provides clearance or
15 settlement services for a board of trade that has been designated as a
16 contract market pursuant to federal commodities law.

17 (18) "Communicate" means:

18 (A) To send a written or other tangible record;

19 (B) To transmit a record by any means agreed upon by the persons
20 sending and receiving the record; or

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

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

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

29 (A) The merchant:

30 (i) Deals in goods of that kind under a name other than the name of
31 the person making delivery;

32 (ii) Is not an auctioneer; and

33 (iii) Is not generally known by its creditors to be substantially
34 engaged in selling the goods of others;

35 (B) With respect to each delivery, the aggregate value of the goods
36 is one thousand dollars or more at the time of delivery;

37 (C) The goods are not consumer goods immediately before delivery;
38 and

1 (D) The transaction does not create a security interest that
2 secures an obligation.

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

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

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

8 (24) "Consumer-goods transaction" means a consumer transaction in
9 which:

10 (A) An individual incurs a consumer obligation; and
11 (B) A security interest in consumer goods secures the obligation.

12 (25) "Consumer obligation" means an obligation which:

13 (A) Is incurred as part of a transaction entered into primarily for
14 personal, family, or household purposes; and
15 (B) Arises from an extension of credit, or commitment to extend
16 credit, in an aggregate amount not exceeding forty thousand dollars, or
17 is secured by personal property used or expected to be used as a
18 principal dwelling.

19 "Consumer obligor" means an obligor who is an individual and who
20 incurred a consumer obligation.

21 (26) "Consumer transaction" means a transaction in which (~~(A)~~)
22 (i) an individual incurs a consumer obligation, (~~(B)~~) (ii) a security
23 interest secures the obligation, and (~~(C)~~) (iii) the collateral is
24 held or acquired primarily for personal, family, or household purposes.
25 The term includes consumer-goods transactions.

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

28 (A) Identifies, by its file number, the initial financing statement
29 to which it relates; and
30 (B) Indicates that it is a continuation statement for, or that it
31 is filed to continue the effectiveness of, the identified financing
32 statement.

33 (28) "Debtor" means:

34 (A) A person having an interest, other than a security interest or
35 other lien, in the collateral, whether or not the person is an obligor;
36 (B) A seller of accounts, chattel paper, payment intangibles, or
37 promissory notes; or
38 (C) A consignee.

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

4 (30) "Document" means a document of title or a receipt of the type
5 described in RCW 62A.7-201(~~(+2)~~) (b).

6 (31) "Electronic chattel paper" means chattel paper evidenced by a
7 record or records consisting of information stored in an electronic
8 medium.

9 (32) "Encumbrance" means a right, other than an ownership interest,
10 in real property. The term includes mortgages and other liens on real
11 property.

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

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

17 (A) Crops grown, growing, or to be grown, including:

18 (i) Crops produced on trees, vines, and bushes; and

19 (ii) Aquatic goods produced in aquacultural operations;

20 (B) Livestock, born or unborn, including aquatic goods produced in
21 aquacultural operations;

22 (C) Supplies used or produced in a farming operation; or

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

24 (35) "Farming operation" means raising, cultivating, propagating,
25 fattening, grazing, or any other farming, livestock, or aquacultural
26 operation.

27 (36) "File number" means the number assigned to an initial
28 financing statement pursuant to RCW 62A.9A-519(a).

29 (37) "Filing office" means an office designated in RCW 62A.9A-501
30 as the place to file a financing statement.

31 (38) "Filing-office rule" means a rule adopted pursuant to RCW
32 62A.9A-526.

33 (39) "Financing statement" means a record or records composed of an
34 initial financing statement and any filed record relating to the
35 initial financing statement.

36 (40) "Fixture filing" means the filing of a financing statement
37 covering goods that are or are to become fixtures and satisfying RCW

1 62A.9A-502 (a) and (b). The term includes the filing of a financing
2 statement covering goods of a transmitting utility which are or are to
3 become fixtures.

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

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

13 (43) (~~"Good faith" means honesty in fact and the observance of~~
14 ~~reasonable commercial standards of fair dealing.~~) [Reserved.]

15 (44) "Goods" means all things that are movable when a security
16 interest attaches. The term includes ~~((A))~~ (i) fixtures, ~~((B))~~
17 (ii) standing timber that is to be cut and removed under a conveyance
18 or contract for sale, ~~((C))~~ (iii) the unborn young of animals,
19 ~~((D))~~ (iv) crops grown, growing, or to be grown, even if the crops
20 are produced on trees, vines, or bushes, and ~~((E))~~ (v) manufactured
21 homes. The term also includes a computer program embedded in goods and
22 any supporting information provided in connection with a transaction
23 relating to the program if (i) the program is associated with the goods
24 in such a manner that it customarily is considered part of the goods,
25 or (ii) by becoming the owner of the goods, a person acquires a right
26 to use the program in connection with the goods. The term does not
27 include a computer program embedded in goods that consist solely of the
28 medium in which the program is embedded. The term also does not
29 include accounts, chattel paper, commercial tort claims, deposit
30 accounts, documents, general intangibles, instruments, investment
31 property, letter-of-credit rights, letters of credit, money, or oil,
32 gas, or other minerals before extraction or a manufactured home
33 converted to real property under chapter 65.20 RCW.

34 (45) "Governmental unit" means a subdivision, agency, department,
35 county, parish, municipality, or other unit of the government of the
36 United States, a state, or a foreign country. The term includes an
37 organization having a separate corporate existence if the organization

1 is eligible to issue debt on which interest is exempt from income
2 taxation under the laws of the United States.

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

6 (47) "Instrument" means a negotiable instrument or any other
7 writing that evidences a right to the payment of a monetary obligation,
8 is not itself a security agreement or lease, and is of a type that in
9 ordinary course of business is transferred by delivery with any
10 necessary indorsement or assignment. The term does not include ~~((A))~~
11 (i) investment property, ~~((B))~~ (ii) letters of credit, ~~((C))~~ (iii)
12 writings that evidence a right to payment arising out of the use of a
13 credit or charge card or information contained on or for use with the
14 card, ~~((D))~~ (iv) writings that do not contain a promise or order to
15 pay, or ~~((E))~~ (v) writings that are expressly nontransferable or
16 nonassignable.

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

18 (A) Are leased by a person as lessor;

19 (B) Are held by a person for sale or lease or to be furnished under
20 a contract of service;

21 (C) Are furnished by a person under a contract of service; or

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

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

27 (50) "Jurisdiction of organization," with respect to a registered
28 organization, means the jurisdiction under whose law the organization
29 is formed or organized.

30 (51) "Letter-of-credit right" means a right to payment or
31 performance under a letter of credit, whether or not the beneficiary
32 has demanded or is at the time entitled to demand payment or
33 performance. The term does not include the right of a beneficiary to
34 demand payment or performance under a letter of credit.

35 (52) "Lien creditor" means:

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

1 (B) An assignee for benefit of creditors from the time of
2 assignment;

3 (C) A trustee in bankruptcy from the date of the filing of the
4 petition; or

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

6 (53) "Manufactured home" means a manufactured home or mobile home
7 as defined in RCW 46.04.302.

8 (54) [Reserved]

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

12 (56) "New debtor" means a person that becomes bound as debtor under
13 RCW 62A.9A-203(d) by a security agreement previously entered into by
14 another person.

15 (57) "New value" means (~~(A)~~) (i) money, (~~(B)~~) (ii) money's
16 worth in property, services, or new credit, or (~~(C)~~) (iii) release by
17 a transferee of an interest in property previously transferred to the
18 transferee. The term does not include an obligation substituted for
19 another obligation.

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

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

29 (60) "Original debtor", except as used in RCW 62A.9A-310(c), means
30 a person that, as debtor, entered into a security agreement to which a
31 new debtor has become bound under RCW 62A.9A-203(d).

32 (61) "Payment intangible" means a general intangible under which
33 the account debtor's principal obligation is a monetary obligation.

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

35 (A) The spouse or state registered domestic partner of the
36 individual;

37 (B) A brother, brother-in-law, sister, or sister-in-law of the
38 individual;

1 (C) An ancestor or lineal descendant of the individual or the
2 individual's spouse or state registered domestic partner; or

3 (D) Any other relative, by blood or by marriage or other law, of
4 the individual or the individual's spouse or state registered domestic
5 partner who shares the same home with the individual.

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

7 (A) A person directly or indirectly controlling, controlled by, or
8 under common control with the organization;

9 (B) An officer or director of, or a person performing similar
10 functions with respect to, the organization;

11 (C) An officer or director of, or a person performing similar
12 functions with respect to, a person described in (63)(A) of this
13 subsection;

14 (D) The spouse or state registered domestic partner of an
15 individual described in (63)(A), (B), or (C) of this subsection; or

16 (E) An individual who is related by blood or by marriage or other
17 law to an individual described in (63)(A), (B), (C), or (D) of this
18 subsection and shares the same home with the individual.

19 (64) "Proceeds", except as used in RCW 62A.9A-609(b), means the
20 following property:

21 (A) Whatever is acquired upon the sale, lease, license, exchange,
22 or other disposition of collateral;

23 (B) Whatever is collected on, or distributed on account of,
24 collateral;

25 (C) Rights arising out of collateral;

26 (D) To the extent of the value of collateral, claims arising out of
27 the loss, nonconformity, or interference with the use of, defects or
28 infringement of rights in, or damage to, the collateral; or

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

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

37 (66) "Proposal" means a record authenticated by a secured party,

1 which includes the terms on which the secured party is willing to
2 accept collateral in full or partial satisfaction of the obligation it
3 secures pursuant to RCW 62A.9A-620, 62A.9A-621, and 62A.9A-622.

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

6 (A) Debt securities are issued;

7 (B) All or a portion of the securities issued have an initial
8 stated maturity of at least twenty years; and

9 (C) The debtor, obligor, secured party, account debtor or other
10 person obligated on collateral, assignor or assignee of a secured
11 obligation, or assignor or assignee of a security interest is a state
12 or a governmental unit of a state.

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

15 (A) A record consisting of the record initially filed with or
16 issued by a state or the United States to form or organize an
17 organization and any record filed with or issued by the state or the
18 United States which amends or restates the initial record;

19 (B) An organic record of a business trust consisting of the record
20 initially filed with a state and any record filed with the state which
21 amends or restates the initial record, if a statute of the state
22 governing business trusts requires that the record be filed with the
23 state; or

24 (C) A record consisting of legislation enacted by the legislature
25 of a state or the congress of the United States which forms or
26 organizes an organization, any record amending the legislation, and any
27 record filed with or issued by the state or the United States which
28 amends or restates the name of the organization.

29 (69) "Pursuant to commitment," with respect to an advance made or
30 other value given by a secured party, means pursuant to the secured
31 party's obligation, whether or not a subsequent event of default or
32 other event not within the secured party's control has relieved or may
33 relieve the secured party from its obligation.

34 (70) "Record," except as used in "for record," "of record," "record
35 or legal title," and "record owner," means information that is
36 inscribed on a tangible medium or which is stored in an electronic or
37 other medium and is retrievable in perceivable form.

1 (71) "Registered organization" means an organization formed or
2 organized solely under the law of a single state or the United States
3 by the filing of a public organic record with, the issuance of a public
4 organic record by, or the enactment of legislation by the state or the
5 United States. The term includes a business trust that is formed or
6 organized under the law of a single state if a statute of the state
7 governing business trusts requires that the business trust's organic
8 record be filed with the state.

9 (72) "Secondary obligor" means an obligor to the extent that:

10 (A) The obligor's obligation is secondary; or

11 (B) The obligor has a right of recourse with respect to an
12 obligation secured by collateral against the debtor, another obligor,
13 or property of either.

14 (73) "Secured party" means:

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

18 (B) A person that holds an agricultural lien;

19 (C) A consignor;

20 (D) A person to which accounts, chattel paper, payment intangibles,
21 or promissory notes have been sold;

22 (E) A trustee, indenture trustee, agent, collateral agent, or other
23 representative in whose favor a security interest or agricultural lien
24 is created or provided for; or

25 (F) A person that holds a security interest arising under RCW
26 62A.2-401, 62A.2-505, 62A.2-711(3), 62A.2A-508(5), 62A.4-210, or 62A.5-
27 118.

28 (74) "Security agreement" means an agreement that creates or
29 provides for a security interest.

30 (75) "Send," in connection with a record or notification, means:

31 (A) To deposit in the mail, deliver for transmission, or transmit
32 by any other usual means of communication, with postage or cost of
33 transmission provided for, addressed to any address reasonable under
34 the circumstances; or

35 (B) To cause the record or notification to be received within the
36 time that it would have been received if properly sent under (75)(A) of
37 this subsection.

1 (76) "Software" means a computer program and any supporting
2 information provided in connection with a transaction relating to the
3 program. The term does not include a computer program that is included
4 in the definition of goods.

5 (77) "State" means a state of the United States, the District of
6 Columbia, Puerto Rico, the United States Virgin Islands, or any
7 territory or insular possession subject to the jurisdiction of the
8 United States.

9 (78) "Supporting obligation" means a letter-of-credit right or
10 secondary obligation that supports the payment or performance of an
11 account, chattel paper, a document, a general intangible, an
12 instrument, or investment property.

13 (79) "Tangible chattel paper" means chattel paper evidenced by a
14 record or records consisting of information that is inscribed on a
15 tangible medium.

16 (80) "Termination statement" means an amendment of a financing
17 statement which:

18 (A) Identifies, by its file number, the initial financing statement
19 to which it relates; and

20 (B) Indicates either that it is a termination statement or that the
21 identified financing statement is no longer effective.

22 (81) "Transmitting utility" means a person primarily engaged in the
23 business of:

24 (A) Operating a railroad, subway, street railway, or trolley bus;

25 (B) Transmitting communications electrically, electromagnetically,
26 or by light;

27 (C) Transmitting goods by pipeline or sewer; or

28 (D) Transmitting or producing and transmitting electricity, steam,
29 gas, or water.

30 (b) **Definitions in other articles.** "Control" as provided in RCW
31 62A.7-106 and the following definitions in other articles apply to this
32 Article:

33
34 "Applicant." RCW 62A.5-102.
35 "Beneficiary." RCW 62A.5-102.
36 "Broker." RCW 62A.8-102.

1	"Certificated security."	RCW 62A.8-102.
2	"Check."	RCW 62A.3-104.
3	"Clearing corporation."	RCW 62A.8-102.
4	"Contract for sale."	RCW 62A.2-106.
5	"Customer."	RCW 62A.4-104.
6	"Entitlement holder."	RCW 62A.8-102.
7	"Financial asset."	RCW 62A.8-102.
8	"Holder in due course."	RCW 62A.3-302.
9	<u>"Issuer" with respect to</u>	
10	<u>documents of title.</u>	<u>RCW 62A.7-102.</u>
11	"Issuer" with respect to a	
12	letter of credit or letter-	
13	of-credit right.	RCW 62A.5-102.
14	"Issuer" with respect to a	
15	security.	RCW 62A.8-201.
16	"Lease."	RCW 62A.2A-103.
17	"Lease agreement."	RCW 62A.2A-103.
18	"Lease contract."	RCW 62A.2A-103.
19	"Leasehold interest."	RCW 62A.2A-103.
20	"Lessee."	RCW 62A.2A-103.
21	"Lessee in ordinary course	
22	of business."	RCW 62A.2A-103.
23	"Lessor."	RCW 62A.2A-103.
24	"Lessor's residual interest."	RCW 62A.2A-103.
25	"Letter of credit."	RCW 62A.5-102.
26	"Merchant."	RCW 62A.2-104.
27	"Negotiable instrument."	RCW 62A.3-104.
28	"Nominated person."	RCW 62A.5-102.
29	"Note."	RCW 62A.3-104.
30	"Proceeds of a letter of	
31	credit."	RCW 62A.5-114.
32	"Prove."	RCW 62A.3-103.
33	"Sale."	RCW 62A.2-106.
34	"Securities account."	RCW 62A.8-501.
35	"Securities intermediary."	RCW 62A.8-102.
36	"Security."	RCW 62A.8-102.
37	"Security certificate."	RCW 62A.8-102.

1 "Security entitlement." RCW 62A.8-102.

2 "Uncertificated security." RCW 62A.8-102.

3 (c) **Article 1 definitions and principles.** Article 1 contains
4 general definitions and principles of construction and interpretation
5 applicable throughout this Article.

6 **Sec. 1503.** RCW 62A.9A-203 and 2000 c 250 s 9A-203 are each amended
7 to read as follows:

8 ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST; PROCEEDS;
9 SUPPORTING OBLIGATIONS; FORMAL REQUISITES. (a) **Attachment.** A security
10 interest attaches to collateral when it becomes enforceable against the
11 debtor with respect to the collateral, unless an agreement expressly
12 postpones the time of attachment.

13 (b) **Enforceability.** Except as otherwise provided in subsections
14 (c) through (i) of this section, a security interest is enforceable
15 against the debtor and third parties with respect to the collateral
16 only if:

17 (1) Value has been given;

18 (2) The debtor has rights in the collateral or the power to
19 transfer rights in the collateral to a secured party; and

20 (3) One of the following conditions is met:

21 (A) The debtor has authenticated a security agreement that provides
22 a description of the collateral and, if the security interest covers
23 timber to be cut, a description of the land concerned;

24 (B) The collateral is not a certificated security and is in the
25 possession of the secured party under RCW 62A.9A-313 pursuant to the
26 debtor's security agreement;

27 (C) The collateral is a certificated security in registered form
28 and the security certificate has been delivered to the secured party
29 under RCW 62A.8-301 pursuant to the debtor's security agreement; or

30 (D) The collateral is deposit accounts, electronic chattel paper,
31 investment property, ~~((or))~~ letter-of-credit rights, or electronic
32 documents, and the secured party has control under RCW 62A.7-106,
33 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107 pursuant to the
34 debtor's security agreement.

35 (c) **Other UCC provisions.** Subsection (b) of this section is
36 subject to RCW 62A.4-210 on the security interest of a collecting bank,

1 RCW 62A.5-118 on the security interest of a letter-of-credit issuer or
2 nominated person, RCW 62A.9A-110 on a security interest arising under
3 Article 2 or 2A, and RCW 62A.9A-206 on security interests in investment
4 property.

5 (d) **When person becomes bound by another person's security**
6 **agreement.** A person becomes bound as debtor by a security agreement
7 entered into by another person if, by operation of law other than this
8 Article or by contract:

9 (1) The security agreement becomes effective to create a security
10 interest in the person's property; or

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

15 (e) **Effect of new debtor becoming bound.** If a new debtor becomes
16 bound as debtor by a security agreement entered into by another person:

17 (1) The agreement satisfies subsection (b)(3) of this section with
18 respect to existing or after-acquired property of the new debtor to the
19 extent the property is described in the agreement; and

20 (2) Another agreement is not necessary to make a security interest
21 in the property enforceable.

22 (f) **Proceeds and supporting obligations.** The attachment of a
23 security interest in collateral gives the secured party the rights to
24 proceeds provided by RCW 62A.9A-315 and is also attachment of a
25 security interest in a supporting obligation for the collateral.

26 (g) **Lien securing right to payment.** The attachment of a security
27 interest in a right to payment or performance secured by a security
28 interest or other lien on personal or real property is also attachment
29 of a security interest in the security interest, mortgage, or other
30 lien.

31 (h) **Security entitlement carried in securities account.** The
32 attachment of a security interest in a securities account is also
33 attachment of a security interest in the security entitlements carried
34 in the securities account.

35 (i) **Commodity contracts carried in commodity account.** The
36 attachment of a security interest in a commodity account is also
37 attachment of a security interest in the commodity contracts carried in
38 the commodity account.

1 **Sec. 1504.** RCW 62A.9A-207 and 2000 c 250 s 9A-207 are each amended
2 to read as follows:

3 RIGHTS AND DUTIES OF SECURED PARTY HAVING POSSESSION OR CONTROL OF
4 COLLATERAL. (a) **Duty of care when secured party in possession.** Except
5 as otherwise provided in subsection (d) of this section, a secured
6 party shall use reasonable care in the custody and preservation of
7 collateral in the secured party's possession. In the case of chattel
8 paper or an instrument, reasonable care includes taking necessary steps
9 to preserve rights against prior parties unless otherwise agreed.

10 (b) **Expenses, risks, duties, and rights when secured party in**
11 **possession.** Except as otherwise provided in subsection (d) of this
12 section, if a secured party has possession of collateral:

13 (1) Reasonable expenses, including the cost of insurance and
14 payment of taxes or other charges, incurred in the custody,
15 preservation, use, or operation of the collateral are chargeable to the
16 debtor and are secured by the collateral;

17 (2) The risk of accidental loss or damage is on the debtor to the
18 extent of a deficiency in any effective insurance coverage;

19 (3) The secured party shall keep the collateral identifiable, but
20 fungible collateral may be commingled; and

21 (4) The secured party may use or operate the collateral:

22 (A) For the purpose of preserving the collateral or its value;

23 (B) As permitted by an order of a court having competent
24 jurisdiction; or

25 (C) Except in the case of consumer goods, in the manner and to the
26 extent agreed by the debtor.

27 (c) **Duties and rights when secured party in possession or control.**
28 Except as otherwise provided in subsection (d) of this section, a
29 secured party having possession of collateral or control of collateral
30 under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107:

31 (1) May hold as additional security any proceeds, except money or
32 funds, received from the collateral;

33 (2) Shall apply money or funds received from the collateral to
34 reduce the secured obligation, unless remitted to the debtor; and

35 (3) May create a security interest in the collateral.

36 (d) **Buyer of certain rights to payment.** If the secured party is a
37 buyer of accounts, chattel paper, payment intangibles, or promissory
38 notes or a consignor:

1 (1) Subsection (a) of this section does not apply unless the
2 secured party is entitled under an agreement:

3 (A) To charge back uncollected collateral; or

4 (B) Otherwise to full or limited recourse against the debtor or a
5 secondary obligor based on the nonpayment or other default of an
6 account debtor or other obligor on the collateral; and

7 (2) Subsections (b) and (c) of this section do not apply.

8 **Sec. 1505.** RCW 62A.9A-208 and 2001 c 32 s 21 are each amended to
9 read as follows:

10 ADDITIONAL DUTIES OF SECURED PARTY HAVING CONTROL OF COLLATERAL.

11 (a) **Applicability of section.** This section applies to cases in which
12 there is no outstanding secured obligation and the secured party is not
13 committed to make advances, incur obligations, or otherwise give value.

14 (b) **Duties of secured party after receiving demand from debtor.**

15 Within ten days after receiving an authenticated demand by the debtor:

16 (1) A secured party having control of a deposit account under RCW
17 62A.9A-104(a)(2) shall send to the bank with which the deposit account
18 is maintained an authenticated statement that releases the bank from
19 any further obligation to comply with instructions originated by the
20 secured party;

21 (2) A secured party having control of a deposit account under RCW
22 62A.9A-104(a)(3) shall:

23 (A) Pay the debtor the balance on deposit in the deposit account;
24 or

25 (B) Transfer the balance on deposit into a deposit account in the
26 debtor's name;

27 (3) A secured party, other than a buyer, having control of
28 electronic chattel paper under RCW 62A.9A-105 shall:

29 (A) Communicate the authoritative copy of the electronic chattel
30 paper to the debtor or its designated custodian;

31 (B) If the debtor designates a custodian that is the designated
32 custodian with which the authoritative copy of the electronic chattel
33 paper is maintained for the secured party, communicate to the custodian
34 an authenticated record releasing the designated custodian from any
35 further obligation to comply with instructions originated by the
36 secured party and instructing the custodian to comply with instructions
37 originated by the debtor; and

1 (C) Take appropriate action to enable the debtor or its designated
2 custodian to make copies of or revisions to the authoritative copy
3 which add or change an identified assignee of the authoritative copy
4 without the consent of the secured party;

5 (4) A secured party having control of investment property under RCW
6 62A.8-106(4)(b) or 62A.9A-106(b) shall send to the securities
7 intermediary or commodity intermediary with which the security
8 entitlement or commodity contract is maintained an authenticated record
9 that releases the securities intermediary or commodity intermediary
10 from any further obligation to comply with entitlement orders or
11 directions originated by the secured party; (~~and~~)

12 (5) A secured party having control of a letter-of-credit right
13 under RCW 62A.9A-107 shall send to each person having an unfulfilled
14 obligation to pay or deliver proceeds of the letter of credit to the
15 secured party an authenticated release from any further obligation to
16 pay or deliver proceeds of the letter of credit to the secured party;
17 and

18 (6) A secured party having control of an electronic document shall:

19 (A) Give control of the electronic document to the debtor or its
20 designated custodian;

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

28 (C) Take appropriate action to enable the debtor or its designated
29 custodian to make copies of or revisions to the authoritative copy
30 which add or change an identified assignee of the authoritative copy
31 without the consent of the secured party.

32 **Sec. 1506.** RCW 62A.9A-301 and 2001 c 32 s 22 are each amended to
33 read as follows:

34 LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS.
35 Except as otherwise provided in RCW 62A.9A-303 through 62A.9A-306, the
36 following rules determine the law governing perfection, the effect of

1 perfection or nonperfection, and the priority of a security interest in
2 collateral:

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

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

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

15 (A) Perfection of a security interest in the goods by filing a
16 fixture filing;

17 (B) Perfection of a security interest in timber to be cut; and

18 (C) The effect of perfection or nonperfection and the priority of
19 a nonpossessory security interest in the collateral.

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

24 **Sec. 1507.** RCW 62A.9A-310 and 2000 c 250 s 9A-310 are each amended
25 to read as follows:

26 WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL
27 LIEN; SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING
28 PROVISIONS DO NOT APPLY. (a) **General rule: Perfection by filing.**
29 Except as otherwise provided in subsections (b) and (d) of this section
30 and RCW 62A.9A-312(b), a financing statement must be filed to perfect
31 all security interests and agricultural liens.

32 (b) **Exceptions: Filing not necessary.** The filing of a financing
33 statement is not necessary to perfect a security interest:

34 (1) That is perfected under RCW 62A.9A-308 (d), (e), (f), or (g);

35 (2) That is perfected under RCW 62A.9A-309 when it attaches;

36 (3) In property subject to a statute, regulation, or treaty
37 described in RCW 62A.9A-311(a);

1 (4) In goods in possession of a bailee which is perfected under RCW
2 62A.9A-312(d) (1) or (2);

3 (5) In certificated securities, documents, goods, or instruments
4 which is perfected without filing, control, or possession under RCW
5 62A.9A-312 (e), (f), or (g);

6 (6) In collateral in the secured party's possession under RCW
7 62A.9A-313;

8 (7) In a certificated security which is perfected by delivery of
9 the security certificate to the secured party under RCW 62A.9A-313;

10 (8) In deposit accounts, electronic chattel paper, electronic
11 documents, investment property, or letter-of-credit rights which is
12 perfected by control under RCW 62A.9A-314;

13 (9) In proceeds which is perfected under RCW 62A.9A-315; or

14 (10) That is perfected under RCW 62A.9A-316.

15 (c) **Assignment of perfected security interest.** If a secured party
16 assigns a perfected security interest or agricultural lien, a filing
17 under this Article is not required to continue the perfected status of
18 the security interest against creditors of and transferees from the
19 original debtor.

20 (d) **Further exception: Filing not necessary for handler's lien.**
21 The filing of a financing statement is not necessary to perfect the
22 agricultural lien of a handler on orchard crops as provided in RCW
23 60.11.020(3).

24 **Sec. 1508.** RCW 62A.9A-310 and 2011 c 74 s 709 are each amended to
25 read as follows:

26 WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL
27 LIEN; SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING
28 PROVISIONS DO NOT APPLY. (a) **General rule: Perfection by filing.**
29 Except as otherwise provided in subsections (b) and (d) of this section
30 and RCW 62A.9A-312(b), a financing statement must be filed to perfect
31 all security interests and agricultural liens.

32 (b) **Exceptions: Filing not necessary.** The filing of a financing
33 statement is not necessary to perfect a security interest:

34 (1) That is perfected under RCW 62A.9A-308 (d), (e), (f), or (g);

35 (2) That is perfected under RCW 62A.9A-309 when it attaches;

36 (3) In property subject to a statute, regulation, or treaty
37 described in RCW 62A.9A-311(a);

1 (4) In goods in possession of a bailee which is perfected under RCW
2 62A.9A-312(d) (1) or (2);

3 (5) In certificated securities, documents, goods, or instruments
4 which is perfected without filing, control, or possession under RCW
5 62A.9A-312 (e), (f), or (g);

6 (6) In collateral in the secured party's possession under RCW
7 62A.9A-313;

8 (7) In a certificated security which is perfected by delivery of
9 the security certificate to the secured party under RCW 62A.9A-313;

10 (8) In deposit accounts, electronic chattel paper, electronic
11 documents, investment property, or letter-of-credit rights which is
12 perfected by control under RCW 62A.9A-314;

13 (9) In proceeds which is perfected under RCW 62A.9A-315; or

14 (10) That is perfected under RCW 62A.9A-316.

15 (c) **Assignment of perfected security interest.** If a secured party
16 assigns a perfected security interest or agricultural lien, a filing
17 under this Article is not required to continue the perfected status of
18 the security interest against creditors of and transferees from the
19 original debtor.

20 (d) **Further exception: Filing not necessary for handler's lien.**
21 The filing of a financing statement is not necessary to perfect the
22 agricultural lien of a handler on orchard crops as provided in RCW
23 60.11.020(3).

24 **Sec. 1509.** RCW 62A.9A-312 and 2000 c 250 s 9A-312 are each amended
25 to read as follows:

26 PERFECTION OF SECURITY INTERESTS IN CHATTEL PAPER, DEPOSIT
27 ACCOUNTS, DOCUMENTS, GOODS COVERED BY DOCUMENTS, INSTRUMENTS,
28 INVESTMENT PROPERTY, LETTER-OF-CREDIT RIGHTS, AND MONEY; PERFECTION BY
29 PERMISSIVE FILING; TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF
30 POSSESSION. (a) **Perfection by filing permitted.** A security interest
31 in chattel paper, negotiable documents, instruments, or investment
32 property may be perfected by filing.

33 (b) **Control or possession of certain collateral.** Except as
34 otherwise provided in RCW 62A.9A-315 (c) and (d) for proceeds:

35 (1) A security interest in a deposit account may be perfected only
36 by control under RCW 62A.9A-314;

1 (2) And except as otherwise provided in RCW 62A.9A-308(d), a
2 security interest in a letter-of-credit right may be perfected only by
3 control under RCW 62A.9A-314; and

4 (3) A security interest in money may be perfected only by the
5 secured party's taking possession under RCW 62A.9A-313.

6 (c) **Goods covered by negotiable document.** While goods are in the
7 possession of a bailee that has issued a negotiable document covering
8 the goods:

9 (1) A security interest in the goods may be perfected by perfecting
10 a security interest in the document; and

11 (2) A security interest perfected in the document has priority over
12 any security interest that becomes perfected in the goods by another
13 method during that time.

14 (d) **Goods covered by nonnegotiable document.** While goods are in
15 the possession of a bailee that has issued a nonnegotiable document
16 covering the goods, a security interest in the goods may be perfected
17 by:

18 (1) Issuance of a document in the name of the secured party;

19 (2) The bailee's receipt of notification of the secured party's
20 interest; or

21 (3) Filing as to the goods.

22 (e) **Temporary perfection: New value.** A security interest in
23 certificated securities, negotiable documents, or instruments is
24 perfected without filing or the taking of possession or control for a
25 period of twenty days from the time it attaches to the extent that it
26 arises for new value given under an authenticated security agreement.

27 (f) **Temporary perfection: Goods or documents made available to**
28 **debtor.** A perfected security interest in a negotiable document or
29 goods in possession of a bailee, other than one that has issued a
30 negotiable document for the goods, remains perfected for twenty days
31 without filing if the secured party makes available to the debtor the
32 goods or documents representing the goods for the purpose of:

33 (1) Ultimate sale or exchange; or

34 (2) Loading, unloading, storing, shipping, transshipping,
35 manufacturing, processing, or otherwise dealing with them in a manner
36 preliminary to their sale or exchange.

37 (g) **Temporary perfection: Delivery of security certificate or**
38 **instrument to debtor.** A perfected security interest in a certificated

1 security or instrument remains perfected for twenty days without filing
2 if the secured party delivers the security certificate or instrument to
3 the debtor for the purpose of:

- 4 (1) Ultimate sale or exchange; or
- 5 (2) Presentation, collection, enforcement, renewal, or registration
6 of transfer.

7 (h) **Expiration of temporary perfection.** After the twenty-day
8 period specified in subsection (e), (f), or (g) of this section
9 expires, perfection depends upon compliance with this Article.

10 **Sec. 1510.** RCW 62A.9A-313 and 2001 c 32 s 26 are each amended to
11 read as follows:

12 WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY
13 INTEREST WITHOUT FILING. (a) **Perfection by possession or delivery.**
14 Except as otherwise provided in subsection (b) of this section, a
15 secured party may perfect a security interest in tangible negotiable
16 documents, goods, instruments, money, or tangible chattel paper by
17 taking possession of the collateral. A secured party may perfect a
18 security interest in certificated securities by taking delivery of the
19 certificated securities under RCW 62A.8-301.

20 (b) **Goods covered by certificate of title.** With respect to goods
21 covered by a certificate of title issued by this state, a secured party
22 may perfect a security interest in the goods by taking possession of
23 the goods only in the circumstances described in RCW 62A.9A-316(d).

24 (c) **Collateral in possession of person other than debtor.** With
25 respect to collateral other than certificated securities and goods
26 covered by a document, a secured party takes possession of collateral
27 in the possession of a person other than the debtor, the secured party,
28 or a lessee of the collateral from the debtor in the ordinary course of
29 the debtor's business, when:

30 (1) The person in possession authenticates a record acknowledging
31 that it holds possession of the collateral for the secured party's
32 benefit; or

33 (2) The person takes possession of the collateral after having
34 authenticated a record acknowledging that it will hold possession of
35 collateral for the secured party's benefit.

36 (d) **Time of perfection by possession; continuation of perfection.**
37 If perfection of a security interest depends upon possession of the

1 collateral by a secured party, perfection occurs no earlier than the
2 time the secured party takes possession and continues only while the
3 secured party retains possession.

4 (e) **Time of perfection by delivery; continuation of perfection.** A
5 security interest in a certificated security in registered form is
6 perfected by delivery when delivery of the certificated security occurs
7 under RCW 62A.8-301 and remains perfected by delivery until the debtor
8 obtains possession of the security certificate.

9 (f) **Acknowledgment not required.** A person in possession of
10 collateral is not required to acknowledge that it holds possession for
11 a secured party's benefit.

12 (g) **Effectiveness of acknowledgment; no duties or confirmation.** If
13 a person acknowledges that it holds possession for the secured party's
14 benefit:

15 (1) The acknowledgment is effective under subsection (c) of this
16 section or RCW 62A.8-301(1), even if the acknowledgment violates the
17 rights of a debtor; and

18 (2) Unless the person otherwise agrees or law other than this
19 Article otherwise provides, the person does not owe any duty to the
20 secured party and is not required to confirm the acknowledgment to
21 another person.

22 (h) **Secured party's delivery to person other than debtor.** A
23 secured party having possession of collateral does not relinquish
24 possession by delivering the collateral to a person other than the
25 debtor or a lessee of the collateral from the debtor in the ordinary
26 course of the debtor's business if the person was instructed before the
27 delivery or is instructed contemporaneously with the delivery:

28 (1) To hold possession of the collateral for the secured party's
29 benefit; or

30 (2) To redeliver the collateral to the secured party.

31 (i) **Effect of delivery under subsection (h) of this section; no**
32 **duties or confirmation.** A secured party does not relinquish
33 possession, even if a delivery under subsection (h) of this section
34 violates the rights of a debtor. A person to which collateral is
35 delivered under subsection (h) of this section does not owe any duty to
36 the secured party and is not required to confirm the delivery to
37 another person unless the person otherwise agrees or law other than
38 this Article otherwise provides.

1 **Sec. 1511.** RCW 62A.9A-313 and 2011 c 74 s 710 are each amended to
2 read as follows:

3 WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY
4 INTEREST WITHOUT FILING. (a) **Perfection by possession or delivery.**
5 Except as otherwise provided in subsection (b) of this section, a
6 secured party may perfect a security interest in tangible negotiable
7 documents, goods, instruments, money, or tangible chattel paper by
8 taking possession of the collateral. A secured party may perfect a
9 security interest in certificated securities by taking delivery of the
10 certificated securities under RCW 62A.8-301.

11 (b) **Goods covered by certificate of title.** With respect to goods
12 covered by a certificate of title issued by this state, a secured party
13 may perfect a security interest in the goods by taking possession of
14 the goods only in the circumstances described in RCW 62A.9A-316(d).

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

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

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

27 (d) **Time of perfection by possession; continuation of perfection.**
28 If perfection of a security interest depends upon possession of the
29 collateral by a secured party, perfection occurs no earlier than the
30 time the secured party takes possession and continues only while the
31 secured party retains possession.

32 (e) **Time of perfection by delivery; continuation of perfection.** A
33 security interest in a certificated security in registered form is
34 perfected by delivery when delivery of the certificated security occurs
35 under RCW 62A.8-301 and remains perfected by delivery until the debtor
36 obtains possession of the security certificate.

37 (f) **Acknowledgment not required.** A person in possession of

1 collateral is not required to acknowledge that it holds possession for
2 a secured party's benefit.

3 (g) **Effectiveness of acknowledgment; no duties or confirmation.** If
4 a person acknowledges that it holds possession for the secured party's
5 benefit:

6 (1) The acknowledgment is effective under subsection (c) of this
7 section or RCW 62A.8-301(1), even if the acknowledgment violates the
8 rights of a debtor; and

9 (2) Unless the person otherwise agrees or law other than this
10 Article otherwise provides, the person does not owe any duty to the
11 secured party and is not required to confirm the acknowledgment to
12 another person.

13 (h) **Secured party's delivery to person other than debtor.** A
14 secured party having possession of collateral does not relinquish
15 possession by delivering the collateral to a person other than the
16 debtor or a lessee of the collateral from the debtor in the ordinary
17 course of the debtor's business if the person was instructed before the
18 delivery or is instructed contemporaneously with the delivery:

19 (1) To hold possession of the collateral for the secured party's
20 benefit; or

21 (2) To redeliver the collateral to the secured party.

22 (i) **Effect of delivery under subsection (h) of this section; no**
23 **duties or confirmation.** A secured party does not relinquish
24 possession, even if a delivery under subsection (h) of this section
25 violates the rights of a debtor. A person to which collateral is
26 delivered under subsection (h) of this section does not owe any duty to
27 the secured party and is not required to confirm the delivery to
28 another person unless the person otherwise agrees or law other than
29 this Article otherwise provides.

30 **Sec. 1512.** RCW 62A.9A-314 and 2000 c 250 s 9A-314 are each amended
31 to read as follows:

32 **PERFECTION BY CONTROL.** (a) **Perfection by control.** A security
33 interest in investment property, deposit accounts, letter-of-credit
34 rights, ((~~or~~)) electronic chattel paper, or electronic documents may be
35 perfected by control of the collateral under RCW 62A.7-106, 62A.9A-104,
36 62A.9A-105, 62A.9A-106, or 62A.9A-107.

1 (b) **Specified collateral: Time of perfection by control;**
2 **continuation of perfection.** A security interest in deposit accounts,
3 electronic chattel paper, ((~~or~~)) letter-of-credit rights, or electronic
4 documents is perfected by control under RCW 62A.7-106, 62A.9A-104,
5 62A.9A-105, or 62A.9A-107 when the secured party obtains control and
6 remains perfected by control only while the secured party retains
7 control.

8 (c) **Investment property: Time of perfection by control;**
9 **continuation of perfection.** A security interest in investment property
10 is perfected by control under RCW 62A.9A-106 from the time the secured
11 party obtains control and remains perfected by control until:

12 (1) The secured party does not have control; and

13 (2) One of the following occurs:

14 (A) If the collateral is a certificated security, the debtor has or
15 acquires possession of the security certificate;

16 (B) If the collateral is an uncertificated security, the issuer has
17 registered or registers the debtor as the registered owner; or

18 (C) If the collateral is a security entitlement, the debtor is or
19 becomes the entitlement holder.

20 **Sec. 1513.** RCW 62A.9A-317 and 2001 c 32 s 27 are each amended to
21 read as follows:

22 INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST
23 OR AGRICULTURAL LIEN. (a) **Conflicting security interests and rights of**
24 **lien creditors.** A security interest or agricultural lien is
25 subordinate to the rights of:

26 (1) A person entitled to priority under RCW 62A.9A-322; and

27 (2) Except as otherwise provided in subsection (e) of this section,
28 a person that becomes a lien creditor before the earlier of the time:

29 (A) The security interest or agricultural lien is perfected; or

30 (B) One of the conditions specified in RCW 62A.9A-203(b)(3) is met
31 and a financing statement covering the collateral is filed.

32 (b) **Buyers that receive delivery.** Except as otherwise provided in
33 subsection (e) of this section, a buyer, other than a secured party, of
34 tangible chattel paper, tangible documents, goods, instruments, or a
35 security certificate takes free of a security interest or agricultural
36 lien if the buyer gives value and receives delivery of the collateral

1 without knowledge of the security interest or agricultural lien and
2 before it is perfected.

3 (c) **Lessees that receive delivery.** Except as otherwise provided in
4 subsection (e) of this section, a lessee of goods takes free of a
5 security interest or agricultural lien if the lessee gives value and
6 receives delivery of the collateral without knowledge of the security
7 interest or agricultural lien and before it is perfected.

8 (d) **Licensees and buyers of certain collateral.** A licensee of a
9 general intangible or a buyer, other than a secured party, of accounts,
10 electronic chattel paper, electronic documents, general intangibles, or
11 investment property other than a certificated security takes free of a
12 security interest if the licensee or buyer gives value without
13 knowledge of the security interest and before it is perfected.

14 (e) **Purchase-money security interest.** Except as otherwise provided
15 in RCW 62A.9A-320 and 62A.9A-321, if a person files a financing
16 statement with respect to a purchase-money security interest before or
17 within twenty days after the debtor receives delivery of the
18 collateral, the security interest takes priority over the rights of a
19 buyer, lessee, or lien creditor which arise between the time the
20 security interest attaches and the time of filing.

21 **Sec. 1514.** RCW 62A.9A-317 and 2011 c 74 s 204 are each amended to
22 read as follows:

23 INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST
24 OR AGRICULTURAL LIEN. (a) **Conflicting security interests and rights of**
25 **lien creditors.** A security interest or agricultural lien is
26 subordinate to the rights of:

- 27 (1) A person entitled to priority under RCW 62A.9A-322; and
- 28 (2) Except as otherwise provided in subsection (e) of this section,
29 a person that becomes a lien creditor before the earlier of the time:
 - 30 (A) The security interest or agricultural lien is perfected; or
 - 31 (B) One of the conditions specified in RCW 62A.9A-203(b)(3) is met
32 and a financing statement covering the collateral is filed.

33 (b) **Buyers that receive delivery.** Except as otherwise provided in
34 subsection (e) of this section, a buyer, other than a secured party, of
35 tangible chattel paper, tangible documents, goods, instruments, or a
36 certificated security takes free of a security interest or agricultural

1 lien if the buyer gives value and receives delivery of the collateral
2 without knowledge of the security interest or agricultural lien and
3 before it is perfected.

4 (c) **Lessees that receive delivery.** Except as otherwise provided in
5 subsection (e) of this section, a lessee of goods takes free of a
6 security interest or agricultural lien if the lessee gives value and
7 receives delivery of the collateral without knowledge of the security
8 interest or agricultural lien and before it is perfected.

9 (d) **Licensees and buyers of certain collateral.** A licensee of a
10 general intangible or a buyer, other than a secured party, of
11 collateral other than tangible chattel paper, tangible documents,
12 goods, instruments, or a certificated security takes free of a security
13 interest if the licensee or buyer gives value without knowledge of the
14 security interest and before it is perfected.

15 (e) **Purchase-money security interest.** Except as otherwise provided
16 in RCW 62A.9A-320 and 62A.9A-321, if a person files a financing
17 statement with respect to a purchase-money security interest before or
18 within twenty days after the debtor receives delivery of the
19 collateral, the security interest takes priority over the rights of a
20 buyer, lessee, or lien creditor which arise between the time the
21 security interest attaches and the time of filing.

22 **Sec. 1515.** RCW 62A.9A-338 and 2000 c 250 s 9A-338 are each amended
23 to read as follows:

24 PRIORITY OF SECURITY INTEREST OR AGRICULTURAL LIEN PERFECTED BY
25 FILED FINANCING STATEMENT PROVIDING CERTAIN INCORRECT INFORMATION. If
26 a security interest or agricultural lien is perfected by a filed
27 financing statement providing information described in RCW
28 62A.9A-516(b)(5) which is incorrect at the time the financing statement
29 is filed:

30 (1) The security interest or agricultural lien is subordinate to a
31 conflicting perfected security interest in the collateral to the extent
32 that the holder of the conflicting security interest gives value in
33 reasonable reliance upon the incorrect information; and

34 (2) A purchaser, other than a secured party, of the collateral
35 takes free of the security interest or agricultural lien to the extent
36 that, in reasonable reliance upon the incorrect information, the

1 purchaser gives value and, in the case of tangible chattel paper,
2 tangible documents, goods, instruments, or a security certificate,
3 receives delivery of the collateral.

4 **Sec. 1516.** RCW 62A.9A-338 and 2011 c 74 s 715 are each amended to
5 read as follows:

6 PRIORITY OF SECURITY INTEREST OR AGRICULTURAL LIEN PERFECTED BY
7 FILED FINANCING STATEMENT PROVIDING CERTAIN INCORRECT INFORMATION. If
8 a security interest or agricultural lien is perfected by a filed
9 financing statement providing information described in RCW
10 62A.9A-516(b)(5) which is incorrect at the time the financing statement
11 is filed:

12 (1) The security interest or agricultural lien is subordinate to a
13 conflicting perfected security interest in the collateral to the extent
14 that the holder of the conflicting security interest gives value in
15 reasonable reliance upon the incorrect information; and

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

22 **Sec. 1517.** RCW 62A.9A-601 and 2000 c 250 s 9A-601 are each amended
23 to read as follows:

24 RIGHTS AFTER DEFAULT; JUDICIAL ENFORCEMENT; CONSIGNOR OR BUYER OF
25 ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, OR PROMISSORY NOTES. (a)
26 **Rights of secured party after default.** After default, a secured party
27 has the rights provided in this part and, except as otherwise provided
28 in RCW 62A.9A-602, those provided by agreement of the parties. A
29 secured party:

30 (1) May reduce a claim to judgment, foreclose, or otherwise enforce
31 the claim, security interest, or agricultural lien by any available
32 judicial procedure; and

33 (2) If the collateral is documents, may proceed either as to the
34 documents or as to the goods they cover.

35 (b) **Rights and duties of secured party in possession or control.**

1 A secured party in possession of collateral or control of collateral
2 under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107
3 has the rights and duties provided in RCW 62A.9A-207.

4 (c) **Rights cumulative; simultaneous exercise.** The rights under
5 subsections (a) and (b) of this section are cumulative and may be
6 exercised simultaneously.

7 (d) **Rights of debtor and obligor.** Except as otherwise provided in
8 subsection (g) of this section and RCW 62A.9A-605, after default, a
9 debtor and an obligor have the rights provided in this part and by
10 agreement of the parties.

11 (e) **Lien of levy after judgment.** If a secured party has reduced
12 its claim to judgment, the lien of any levy that may be made upon the
13 collateral by virtue of an execution based upon the judgment relates
14 back to the earliest of:

15 (1) The date of perfection of the security interest or agricultural
16 lien in the collateral;

17 (2) The date of filing a financing statement covering the
18 collateral; or

19 (3) Any date specified in a statute under which the agricultural
20 lien was created.

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

26 (g) **Consignor or buyer of certain rights to payment.** Except as
27 otherwise provided in RCW 62A.9A-607(c), this part imposes no duties
28 upon a secured party that is a consignor or is a buyer of accounts,
29 chattel paper, payment intangibles, or promissory notes.

30 (h) **Enforcement restrictions.** All rights and remedies provided in
31 this part with respect to promissory notes or an agreement between an
32 account debtor and a debtor which relates to a health-care-insurance
33 receivable or a general intangible, including a contract, permit,
34 license, or franchise, are subject to RCW 62A.9A-408 to the extent
35 applicable.

36 **Sec. 1518.** RCW 62A.9A-601 and 2011 c 74 s 722 are each amended to
37 read as follows:

1 RIGHTS AFTER DEFAULT; JUDICIAL ENFORCEMENT; CONSIGNOR OR BUYER OF
2 ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, OR PROMISSORY NOTES. (a)
3 **Rights of secured party after default.** After default, a secured party
4 has the rights provided in this part and, except as otherwise provided
5 in RCW 62A.9A-602, those provided by agreement of the parties. A
6 secured party:

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

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

12 (b) **Rights and duties of secured party in possession or control.**
13 A secured party in possession of collateral or control of collateral
14 under RCW 62A.7-106, 62A.9A-104, 62A.9A-105, 62A.9A-106, or 62A.9A-107
15 has the rights and duties provided in RCW 62A.9A-207.

16 (c) **Rights cumulative; simultaneous exercise.** The rights under
17 subsections (a) and (b) of this section are cumulative and may be
18 exercised simultaneously.

19 (d) **Rights of debtor and obligor.** Except as otherwise provided in
20 subsection (g) of this section and RCW 62A.9A-605, after default, a
21 debtor and an obligor have the rights provided in this part and by
22 agreement of the parties.

23 (e) **Lien of levy after judgment.** If a secured party has reduced
24 its claim to judgment, the lien of any levy that may be made upon the
25 collateral by virtue of an execution based upon the judgment relates
26 back to the earliest of:

27 (1) The date of perfection of the security interest or agricultural
28 lien in the collateral;

29 (2) The date of filing a financing statement covering the
30 collateral; or

31 (3) Any date specified in a statute under which the agricultural
32 lien was created.

33 (f) **Execution sale.** A sale pursuant to an execution is a
34 foreclosure of the security interest or agricultural lien by judicial
35 procedure within the meaning of this section. A secured party may
36 purchase at the sale and thereafter hold the collateral free of any
37 other requirements of this Article.

1 (g) **Consignor or buyer of certain rights to payment.** Except as
2 otherwise provided in RCW 62A.9A-607(c), this part imposes no duties
3 upon a secured party that is a consignor or is a buyer of accounts,
4 chattel paper, payment intangibles, or promissory notes.

5 (h) **Enforcement restrictions.** All rights and remedies provided in
6 this part with respect to promissory notes or an agreement between an
7 account debtor and a debtor which relates to a health-care-insurance
8 receivable or a general intangible, including a contract, permit,
9 license, or franchise, are subject to RCW 62A.9A-408 to the extent
10 applicable.

11 **PART XVI**
12 **STATUTORY REPEALS**

13 NEW SECTION. **Sec. 1601.** The following acts or parts of acts are
14 each repealed:

- 15 (1) RCW 62A.1-109 (Section captions) and 1965 ex.s. c 157 s 1-109;
16 (2) RCW 62A.1-207 (Performance or acceptance under reservation of
17 rights) and 1993 c 229 s 2 & 1965 ex.s. c 157 s 1-207;
18 (3) RCW 62A.1-208 (Option to accelerate at will) and 1965 ex.s. c
19 157 s 1-208;
20 (4) RCW 62A.2-208 (Course of performance or practical construction)
21 and 1965 ex.s. c 157 s 2-208;
22 (5) RCW 62A.2A-207 (Course of performance or practical
23 construction) and 1993 c 230 s 2A-207;
24 (6) RCW 62A.10-104 (Laws not repealed) and 1995 c 48 s 71 & 1965
25 ex.s. c 157 s 10-104; and
26 (7) 2011 c 74 s 801.

27 **PART XVII**
28 **CONFORMING AMENDMENTS TO UCC NUMBERING SYSTEM FOR ARTICLE 5**

29 **Sec. 1701.** RCW 62A.5-102 and 1997 c 56 s 3 are each amended to
30 read as follows:

31 ((+1)) (a) The definitions in this section apply throughout this
32 Article unless the context clearly requires otherwise:

33 ((+a)) (1) "Adviser" means a person who, at the request of the

1 issuer, a confirmer, or another adviser, notifies or requests another
2 adviser to notify the beneficiary that a letter of credit has been
3 issued, confirmed, or amended.

4 ~~((b))~~ (2) "Applicant" means a person at whose request or for
5 whose account a letter of credit is issued. The term includes a person
6 who requests an issuer to issue a letter of credit on behalf of another
7 if the person making the request undertakes an obligation to reimburse
8 the issuer.

9 ~~((c))~~ (3) "Beneficiary" means a person who under the terms of a
10 letter of credit is entitled to have its complying presentation
11 honored. The term includes a person to whom drawing rights have been
12 transferred under a transferable letter of credit.

13 ~~((d))~~ (4) "Confirmer" means a nominated person who undertakes, at
14 the request or with the consent of the issuer, to honor a presentation
15 under a letter of credit issued by another.

16 ~~((e))~~ (5) "Dishonor" of a letter of credit means failure timely
17 to honor or to take an interim action, such as acceptance of a draft,
18 that may be required by the letter of credit.

19 ~~((f))~~ (6) "Document" means a draft or other demand, document of
20 title, investment security, certificate, invoice, or other record,
21 statement, or representation of fact, law, right, or opinion (i) which
22 is presented in a written or other medium permitted by the letter of
23 credit or, unless prohibited by the letter of credit, by the standard
24 practice referred to in RCW 62A.5-108~~((5))~~ (e) and (ii) which is
25 capable of being examined for compliance with the terms and conditions
26 of the letter of credit. A document may not be oral.

27 ~~((g))~~ (7) "Good faith" means honesty in fact in the conduct or
28 transaction concerned.

29 ~~((h))~~ (8) "Honor" of a letter of credit means performance of the
30 issuer's undertaking in the letter of credit to pay or deliver an item
31 of value. Unless the letter of credit otherwise provides, "honor"
32 occurs:

33 (i) Upon payment;

34 (ii) If the letter of credit provides for acceptance, upon
35 acceptance of a draft and, at maturity, its payment; or

36 (iii) If the letter of credit provides for incurring a deferred
37 obligation, upon incurring the obligation and, at maturity, its
38 performance.

1 (~~(i)~~) (9) "Issuer" means a bank or other person that issues a
2 letter of credit, but does not include an individual who makes an
3 engagement for personal, family, or household purposes.

4 (~~(j)~~) (10) "Letter of credit" means a definite undertaking that
5 satisfies the requirements of RCW 62A.5-104 by an issuer to a
6 beneficiary at the request or for the account of an applicant or, in
7 the case of a financial institution, to itself or for its own account,
8 to honor a documentary presentation by payment or delivery of an item
9 of value.

10 (~~(k)~~) (11) "Nominated person" means a person whom the issuer (i)
11 designates or authorizes to pay, accept, negotiate, or otherwise give
12 value under a letter of credit and (ii) undertakes by agreement or
13 custom and practice to reimburse.

14 (~~(l)~~) (12) "Presentation" means delivery of a document to an
15 issuer or nominated person for honor or giving of value under a letter
16 of credit.

17 (~~(m)~~) (13) "Presenter" means a person making a presentation as or
18 on behalf of a beneficiary or nominated person.

19 (~~(n)~~) (14) "Record" means information that is inscribed on a
20 tangible medium, or that is stored in an electronic or other medium and
21 is retrievable in perceivable form.

22 (~~(o)~~) (15) "Successor of a beneficiary" means a person who
23 succeeds to substantially all of the rights of a beneficiary by
24 operation of law, including a corporation with or into which the
25 beneficiary has been merged or consolidated, an administrator,
26 executor, personal representative, trustee in bankruptcy, debtor in
27 possession, liquidator, and receiver.

28 (~~(2)~~) (b) Definitions in other Articles applying to this Article
29 and the sections in which they appear are:

30 "Accept" or "Acceptance" RCW 62A.3-409

31 "Value" RCW 62A.3-303, RCW 62A.4-211.

32 (~~(3)~~) (c) Article 1 contains certain additional general
33 definitions and principles of construction and interpretation
34 applicable throughout this Article.

35 **Sec. 1702.** RCW 62A.5-104 and 1997 c 56 s 5 are each amended to
36 read as follows:

37 A letter of credit, confirmation, advice, transfer, amendment, or

1 cancellation may be issued in any form that is a record and is
2 authenticated ((+1)) (i) by a signature or ((+2)) (ii) in accordance
3 with the agreement of the parties or the standard practice referred to
4 in RCW 62A.5-108((+5)) (e).

5 **Sec. 1703.** RCW 62A.5-106 and 1997 c 56 s 7 are each amended to
6 read as follows:

7 ((+1)) (a) A letter of credit is issued and becomes enforceable
8 according to its terms against the issuer when the issuer sends or
9 otherwise transmits it to the person requested to advise or to the
10 beneficiary. A letter of credit is revocable only if it so provides.

11 ((+2)) (b) After a letter of credit is issued, rights and
12 obligations of a beneficiary, applicant, confirmer, and issuer are not
13 affected by an amendment or cancellation to which that person has not
14 consented except to the extent the letter of credit provides that it is
15 revocable or that the issuer may amend or cancel the letter of credit
16 without that consent.

17 ((+3)) (c) If there is no stated expiration date or other
18 provision that determines its duration, a letter of credit expires one
19 year after its stated date of issuance or, if none is stated, after the
20 date on which it is issued.

21 ((+4)) (d) A letter of credit that states that it is perpetual
22 expires five years after its stated date of issuance, or if none is
23 stated, after the date on which it is issued.

24 **Sec. 1704.** RCW 62A.5-107 and 1997 c 56 s 8 are each amended to
25 read as follows:

26 ((+1)) (a) A confirmer is directly obligated on a letter of credit
27 and has the rights and obligations of an issuer to the extent of its
28 confirmation. The confirmer also has rights against and obligations to
29 the issuer as if the issuer were an applicant and the confirmer had
30 issued the letter of credit at the request and for the account of the
31 issuer.

32 ((+2)) (b) A nominated person who is not a confirmer is not
33 obligated to honor or otherwise give value for a presentation.

34 ((+3)) (c) A person requested to advise may decline to act as an
35 adviser. An adviser that is not a confirmer is not obligated to honor
36 or give value for a presentation. An adviser undertakes to the issuer

1 and to the beneficiary accurately to advise the terms of the letter of
2 credit, confirmation, amendment, or advice received by that person and
3 undertakes to the beneficiary to check the apparent authenticity of the
4 request to advise. Even if the advice is inaccurate, the letter of
5 credit, confirmation, or amendment is enforceable as issued.

6 ~~((4))~~ (d) A person who notifies a transferee beneficiary of the
7 terms of a letter of credit, confirmation, amendment, or advice has the
8 rights and obligations of an adviser under subsection ~~((3))~~ (c) of
9 this section. The terms in the notice to the transferee beneficiary
10 may differ from the terms in any notice to the transferor beneficiary
11 to the extent permitted by the letter of credit, confirmation,
12 amendment, or advice received by the person who so notifies.

13 **Sec. 1705.** RCW 62A.5-108 and 1997 c 56 s 9 are each amended to
14 read as follows:

15 ~~((1))~~ (a) Except as otherwise provided in RCW 62A.5-109, an
16 issuer shall honor a presentation that, as determined by the standard
17 practice referred to in subsection ~~((5))~~ (e) of this section, appears
18 on its face strictly to comply with the terms and conditions of the
19 letter of credit. Except as otherwise provided in RCW 62A.5-113 and
20 unless otherwise agreed with the applicant, an issuer shall dishonor a
21 presentation that does not appear so to comply.

22 ~~((2))~~ (b) An issuer has a reasonable time after presentation, but
23 not beyond the end of the seventh business day of the issuer after the
24 day of its receipt of documents:

25 ~~((a))~~ (1) To honor;

26 ~~((b))~~ (2) If the letter of credit provides for honor to be
27 completed more than seven business days after presentation, to accept
28 a draft or incur a deferred obligation; or

29 ~~((c))~~ (3) To give notice to the presenter of discrepancies in the
30 presentation.

31 ~~((3))~~ (c) Except as otherwise provided in subsection ~~((4))~~ (d)
32 of this section, an issuer is precluded from asserting as a basis for
33 dishonor any discrepancy if timely notice is not given, or any
34 discrepancy not stated in the notice if timely notice is given.

35 ~~((4))~~ (d) Failure to give the notice specified in subsection
36 ~~((2))~~ (b) of this section or to mention fraud, forgery, or expiration

1 in the notice does not preclude the issuer from asserting as a basis
2 for dishonor fraud or forgery as described in RCW 62A.5-109(~~((1))~~) (a)
3 or expiration of the letter of credit before presentation.

4 ~~((5))~~ (e) An issuer shall observe standard practice of financial
5 institutions that regularly issue letters of credit. Determination of
6 the issuer's observance of the standard practice is a matter of
7 interpretation for the court. The court shall offer the parties a
8 reasonable opportunity to present evidence of the standard practice.

9 ~~((6))~~ (f) An issuer is not responsible for:

10 ~~((a))~~ (1) The performance or nonperformance of the underlying
11 contract, arrangement, or transaction;

12 ~~((b))~~ (2) An act or omission of others; or

13 ~~((c))~~ (3) Observance or knowledge of the usage of a particular
14 trade other than the standard practice referred to in subsection
15 ~~((5))~~ (e) of this section.

16 ~~((7))~~ (g) If an undertaking constituting a letter of credit under
17 RCW 62A.5-102(~~((1))~~~~(j))~~) (a)(10) contains nondocumentary conditions, an
18 issuer shall disregard the nondocumentary conditions and treat them as
19 if they were not stated.

20 ~~((8))~~ (h) An issuer that has dishonored a presentation shall
21 return the documents or hold them at the disposal of, and send advice
22 to that effect to, the presenter.

23 ~~((9))~~ (i) An issuer that has honored a presentation as permitted
24 or required by this Article:

25 ~~((a))~~ (1) Is entitled to be reimbursed by the applicant in
26 immediately available funds not later than the date of its payment of
27 funds;

28 ~~((b))~~ (2) Takes the documents free of claims of the beneficiary
29 or presenter;

30 ~~((c))~~ (3) Is precluded from asserting a right of recourse on a
31 draft under RCW 62A.3-414 and 62A.3-415;

32 ~~((d))~~ (4) Except as otherwise provided in RCW 62A.5-110 and
33 62A.5-117, is precluded from restitution of money paid or other value
34 given by mistake to the extent the mistake concerns discrepancies in
35 the documents or tender which are apparent on the face of the
36 presentation; and

37 ~~((e))~~ (5) Is discharged to the extent of its performance under

1 the letter of credit unless the issuer honored a presentation in which
2 a required signature of a beneficiary was forged.

3 **Sec. 1706.** RCW 62A.5-109 and 1997 c 56 s 10 are each amended to
4 read as follows:

5 ~~((1))~~ (a) If a presentation is made that appears on its face
6 strictly to comply with the terms and conditions of the letter of
7 credit, but a required document is forged or materially fraudulent, or
8 honor of the presentation would facilitate a material fraud by the
9 beneficiary on the issuer or applicant:

10 ~~((a))~~ (1) The issuer shall honor the presentation, if honor is
11 demanded by (i) a nominated person who has given value in good faith
12 and without notice of forgery or material fraud, (ii) a confirmer who
13 has honored its confirmation in good faith, (iii) a holder in due
14 course of a draft drawn under the letter of credit which was taken
15 after acceptance by the issuer or nominated person, or (iv) an assignee
16 of the issuer's or nominated person's deferred obligation that was
17 taken for value and without notice of forgery or material fraud after
18 the obligation was incurred by the issuer or nominated person; and

19 ~~((b))~~ (2) The issuer, acting in good faith, may honor or dishonor
20 the presentation in any other case.

21 ~~((2))~~ (b) If an applicant claims that a required document is
22 forged or materially fraudulent or that honor of the presentation would
23 facilitate a material fraud by the beneficiary on the issuer or
24 applicant, a court of competent jurisdiction may temporarily or
25 permanently enjoin the issuer from honoring a presentation or grant
26 similar relief against the issuer or other persons only if the court
27 finds that:

28 ~~((a))~~ (1) The relief is not prohibited under the law applicable
29 to an accepted draft or deferred obligation incurred by the issuer;

30 ~~((b))~~ (2) A beneficiary, issuer, or nominated person who may be
31 adversely affected is adequately protected against loss that it may
32 suffer because the relief is granted;

33 ~~((c))~~ (3) All of the conditions to entitle a person to the relief
34 under the law of this state have been met; and

35 ~~((d))~~ (4) On the basis of the information submitted to the court,
36 the applicant is more likely than not to succeed under its claim of

1 forgery or material fraud and the person demanding honor does not
2 qualify for protection under subsection ~~((1)(a))~~ (a)(1) of this
3 section.

4 **Sec. 1707.** RCW 62A.5-110 and 1997 c 56 s 11 are each amended to
5 read as follows:

6 ~~((1))~~ (a) If its presentation is honored, the beneficiary
7 warrants:

8 ~~((a))~~ (1) To the issuer, any other person to whom presentation is
9 made, and the applicant that there is no fraud or forgery of the kind
10 described in RCW 62A.5-109~~((1))~~ (a); and

11 ~~((b))~~ (2) To the applicant that the drawing does not violate any
12 agreement between the applicant and beneficiary or any other agreement
13 intended by them to be augmented by the letter of credit.

14 ~~((2))~~ (b) The warranties in subsection ~~((1))~~ (a) of this
15 section are in addition to warranties arising under Articles 3, 4, 7,
16 and 8 because of the presentation or transfer of documents covered by
17 any of those articles.

18 **Sec. 1708.** RCW 62A.5-111 and 1997 c 56 s 12 are each amended to
19 read as follows:

20 ~~((1))~~ (a) If an issuer wrongfully dishonors or repudiates its
21 obligation to pay money under a letter of credit before presentation,
22 the beneficiary, successor, or nominated person presenting on its own
23 behalf may recover from the issuer the amount that is the subject of
24 the dishonor or repudiation. If the issuer's obligation under the
25 letter of credit is not for the payment of money, the claimant may
26 obtain specific performance or, at the claimant's election, recover an
27 amount equal to the value of performance from the issuer. In either
28 case, the claimant may also recover incidental but not consequential
29 damages. The claimant is not obligated to take action to avoid damages
30 that might be due from the issuer under this subsection. If, although
31 not obligated to do so, the claimant avoids damages, the claimant's
32 recovery from the issuer must be reduced by the amount of damages
33 avoided. The issuer has the burden of proving the amount of damages
34 avoided. In the case of repudiation the claimant need not present any
35 document.

1 ~~((2))~~ (b) If an issuer wrongfully dishonors a draft or demand
2 presented under a letter of credit or honors a draft or demand in
3 breach of its obligation to the applicant, the applicant may recover
4 damages resulting from the breach, including incidental but not
5 consequential damages, less any amount saved as a result of the breach.

6 ~~((3))~~ (c) If an adviser or nominated person other than a
7 confirmer breaches an obligation under this Article or an issuer
8 breaches an obligation not covered in subsection ~~((1) or (2))~~ (a) or
9 (b) of this section, a person to whom the obligation is owed may
10 recover damages resulting from the breach, including incidental but not
11 consequential damages, less any amount saved as a result of the breach.
12 To the extent of the confirmation, a confirmer has the liability of an
13 issuer specified in this subsection and subsections ~~((1) and (2))~~ (a)
14 and (b) of this section.

15 ~~((4))~~ (d) An issuer, nominated person, or adviser who is found
16 liable under subsection ~~((1), (2), or (3))~~ (a), (b), or (c) of this
17 section shall pay interest on the amount owed thereunder from the date
18 of wrongful dishonor or other appropriate date.

19 ~~((5))~~ (e) Reasonable attorney's fees and other expenses of
20 litigation must be awarded to the prevailing party in an action in
21 which a remedy is sought under this Article.

22 ~~((6))~~ (f) Damages that would otherwise be payable by a party for
23 breach of an obligation under this Article may be liquidated by
24 agreement or undertaking, but only in an amount or by a formula that is
25 reasonable in light of the harm anticipated.

26 **Sec. 1709.** RCW 62A.5-112 and 1997 c 56 s 13 are each amended to
27 read as follows:

28 ~~((1))~~ (a) Except as otherwise provided in RCW 62A.5-113, unless
29 a letter of credit provides that it is transferable, the right of a
30 beneficiary to draw or otherwise demand performance under a letter of
31 credit may not be transferred.

32 ~~((2))~~ (b) Even if a letter of credit provides that it is
33 transferable, the issuer may refuse to recognize or carry out a
34 transfer if:

35 ~~((a))~~ (1) The transfer would violate applicable law; or

36 ~~((b))~~ (2) The transferor or transferee has failed to comply with
37 any requirement stated in the letter of credit or any other requirement

1 relating to transfer imposed by the issuer which is within the standard
2 practice referred to in RCW 62A.5-108(5) or is otherwise reasonable
3 under the circumstances.

4 **Sec. 1710.** RCW 62A.5-113 and 1997 c 56 s 14 are each amended to
5 read as follows:

6 ((+1)) (a) A successor of a beneficiary may consent to amendments,
7 sign and present documents, and receive payment or other items of value
8 in the name of the beneficiary without disclosing its status as a
9 successor.

10 ((+2)) (b) A successor of a beneficiary may consent to amendments,
11 sign and present documents, and receive payment or other items of value
12 in its own name as the disclosed successor of the beneficiary. Except
13 as otherwise provided in subsection ((+5)) (e) of this section, an
14 issuer shall recognize a disclosed successor of a beneficiary as
15 beneficiary in full substitution for its predecessor upon compliance
16 with the requirements for recognition by the issuer of a transfer of
17 drawing rights by operation of law under the standard practice referred
18 to in RCW 62A.5-108((+5)) (e) or, in the absence of such a practice,
19 compliance with other reasonable procedures sufficient to protect the
20 issuer.

21 ((+3)) (c) An issuer is not obliged to determine whether a
22 purported successor is a successor of a beneficiary or whether the
23 signature of a purported successor is genuine or authorized.

24 ((+4)) (d) Honor of a purported successor's apparently complying
25 presentation under subsection ((+1) or (+2)) (a) or (b) of this section
26 has the consequences specified in RCW 62A.5-108((+9)) (i) even if the
27 purported successor is not the successor of a beneficiary. Documents
28 signed in the name of the beneficiary or of a disclosed successor by a
29 person who is neither the beneficiary nor the successor of the
30 beneficiary are forged documents for the purposes of RCW 62A.5-109.

31 ((+5)) (e) An issuer whose rights of reimbursement are not covered
32 by subsection ((+4)) (d) of this section or substantially similar law
33 and any confirmer or nominated person may decline to recognize a
34 presentation under subsection ((+2)) (b) of this section.

35 ((+6)) (f) A beneficiary whose name is changed after the issuance
36 of a letter of credit has the same rights and obligations as a
37 successor of a beneficiary under this section.

1 **Sec. 1711.** RCW 62A.5-114 and 1997 c 56 s 15 are each amended to
2 read as follows:

3 ~~((1))~~ (a) In this section, "proceeds of a letter of credit" means
4 the cash, check, accepted draft, or other item of value paid or
5 delivered upon honor or giving of value by the issuer or any nominated
6 person under the letter of credit. The term does not include a
7 beneficiary's drawing rights or documents presented by the beneficiary.

8 ~~((2))~~ (b) A beneficiary may assign its right to part or all of
9 the proceeds of a letter of credit. The beneficiary may do so before
10 presentation as a present assignment of its right to receive proceeds
11 contingent upon its compliance with the terms and conditions of the
12 letter of credit.

13 ~~((3))~~ (c) An issuer or nominated person need not recognize an
14 assignment of proceeds of a letter of credit until it consents to the
15 assignment.

16 ~~((4))~~ (d) An issuer or nominated person has no obligation to give
17 or withhold its consent to an assignment of proceeds of a letter of
18 credit, but consent may not be unreasonably withheld if the assignee
19 possesses and exhibits the letter of credit and presentation of the
20 letter of credit is a condition to honor.

21 ~~((5))~~ (e) Rights of a transferee beneficiary or nominated person
22 are independent of the beneficiary's assignment of the proceeds of a
23 letter of credit and are superior to the assignee's right to the
24 proceeds.

25 ~~((6))~~ (f) Neither the rights recognized by this section between
26 an assignee and an issuer, transferee beneficiary, or nominated person
27 nor the issuer's or nominated person's payment of proceeds to an
28 assignee or a third person affect the rights between the assignee and
29 any person other than the issuer, transferee beneficiary, or nominated
30 person. The mode of creating and perfecting a security interest in or
31 granting an assignment of a beneficiary's rights to proceeds is
32 governed by Article 9A or other law. Against persons other than the
33 issuer, transferee beneficiary, or nominated person, the rights and
34 obligations arising upon the creation of a security interest or other
35 assignment of a beneficiary's right to proceeds and its perfection are
36 governed by Article 9A or other law.

1 **Sec. 1712.** RCW 62A.5-116 and 1997 c 56 s 17 are each amended to
2 read as follows:

3 ~~((1))~~ (a) The liability of an issuer, nominated person, or
4 adviser for action or omission is governed by the law of the
5 jurisdiction chosen by an agreement in the form of a record signed or
6 otherwise authenticated by the affected parties in the manner provided
7 in RCW 62A.5-104 or by a provision in the person's letter of credit,
8 confirmation, or other undertaking. The jurisdiction whose law is
9 chosen need not bear any relation to the transaction.

10 ~~((2))~~ (b) Unless subsection ~~((1))~~ (a) of this section applies,
11 the liability of an issuer, nominated person, or adviser for action or
12 omission is governed by the law of the jurisdiction in which the person
13 is located. The person is considered to be located at the address
14 indicated in the person's undertaking. If more than one address is
15 indicated, the person is considered to be located at the address from
16 which the person's undertaking was issued. For the purpose of
17 jurisdiction, choice of law, and recognition of interbranch letters of
18 credit, but not enforcement of a judgment, all branches of a bank are
19 considered separate juridical entities and a bank is considered to be
20 located at the place where its relevant branch is considered to be
21 located under this subsection.

22 ~~((3))~~ (c) Except as otherwise provided in this subsection, the
23 liability of an issuer, nominated person, or adviser is governed by any
24 rules of custom or practice, such as the Uniform Customs and Practice
25 for Documentary Credits, to which the letter of credit, confirmation,
26 or other undertaking is expressly made subject. If ~~((a))~~ (i) this
27 Article would govern the liability of an issuer, nominated person, or
28 adviser under subsection ~~((1) or (2))~~ (a) or (b) of this section,
29 ~~((b))~~ (ii) the relevant undertaking incorporates rules of custom or
30 practice, and ~~((c))~~ (iii) there is conflict between this Article and
31 those rules as applied to that undertaking, those rules govern except
32 to the extent of any conflict with the nonvariable provisions specified
33 in RCW 62A.5-103~~((3))~~ (c).

34 ~~((4))~~ (d) If there is conflict between this Article and Article
35 3, 4, 4A, or 9A, this Article governs.

36 ~~((5))~~ (e) The forum for settling disputes arising out of an
37 undertaking within this Article may be chosen in the manner and with

1 the binding effect that governing law may be chosen in accordance with
2 subsection ~~((1))~~ (a) of this section.

3 **Sec. 1713.** RCW 62A.5-117 and 1997 c 56 s 18 are each amended to
4 read as follows:

5 ~~((1))~~ (a) An issuer that honors a beneficiary's presentation is
6 subrogated to the rights of the beneficiary to the same extent as if
7 the issuer were a secondary obligor of the underlying obligation owed
8 to the beneficiary and of the applicant to the same extent as if the
9 issuer were the secondary obligor of the underlying obligation owed to
10 the applicant.

11 ~~((2))~~ (b) An applicant that reimburses an issuer is subrogated to
12 the rights of the issuer against any beneficiary, presenter, or
13 nominated person to the same extent as if the applicant were the
14 secondary obligor of the obligations owed to the issuer and has the
15 rights of subrogation of the issuer to the rights of the beneficiary
16 stated in subsection ~~((1))~~ (a) of this section.

17 ~~((3))~~ (c) A nominated person who pays or gives value against a
18 draft or demand presented under a letter of credit is subrogated to the
19 rights of:

20 ~~((a))~~ (1) The issuer against the applicant to the same extent as
21 if the nominated person were a secondary obligor of the obligation owed
22 to the issuer by the applicant;

23 ~~((b))~~ (2) The beneficiary to the same extent as if the nominated
24 person were a secondary obligor of the underlying obligation owed to
25 the beneficiary; and

26 ~~((c))~~ (3) The applicant to the same extent as if the nominated
27 person were a secondary obligor of the underlying obligation owed to
28 the applicant.

29 ~~((4))~~ (d) Notwithstanding any agreement or term to the contrary,
30 the rights of subrogation stated in subsections ~~((1) and (2))~~ (a) and
31 (b) of this section do not arise until the issuer honors the letter of
32 credit or otherwise pays and the rights in subsection ~~((3))~~ (c) of
33 this section do not arise until the nominated person pays or otherwise
34 gives value. Until then, the issuer, nominated person, and the
35 applicant do not derive under this section present or prospective
36 rights forming the basis of a claim, defense, or excuse.

1 **Sec. 1714.** RCW 62A.5-118 and 2000 c 250 s 2 are each amended to
2 read as follows:

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

6 (b) So long as and to the extent that an issuer or nominated person
7 has not been reimbursed or has not otherwise recovered the value given
8 with respect to a security interest in a document under subsection (a)
9 of this section, the security interest continues and is subject to
10 Article 9A, but:

11 (1) A security agreement is not necessary to make the security
12 interest enforceable under RCW 62A.9A-203(~~((b)(3))~~) (2)(c);

13 (2) If the document is presented in a medium other than a written
14 or other tangible medium, the security interest is perfected; and

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

21 **Sec. 1715.** RCW 62A.2-512 and 1997 c 56 s 20 are each amended to
22 read as follows:

23 (1) Where the contract requires payment before inspection non-
24 conformity of the goods does not excuse the buyer from so making
25 payment unless

26 (a) the non-conformity appears without inspection; or

27 (b) despite tender of the required documents the circumstances
28 would justify injunction against honor under the provisions of this
29 Title (RCW 62A.5-109(~~((2))~~) (b)).

30 (2) Payment pursuant to subsection (1) does not constitute an
31 acceptance of goods or impair the buyer's right to inspect or any of
32 his or her remedies.

33 **Sec. 1716.** RCW 62A.9A-107 and 2001 c 32 s 19 are each amended to
34 read as follows:

35 A secured party has control of a letter-of-credit right to the
36 extent of any right to payment or performance by the issuer or any

1 nominated person if the issuer or nominated person has consented to an
2 assignment of proceeds of the letter of credit under RCW
3 62A.5-114((+3)) (c) or otherwise applicable law or practice.

4 **PART XVIII**

5 **ADMINISTRATIVE DRAFTING PROVISIONS**

6 NEW SECTION. **Sec. 1801.** Sections 115 through 124 of this act must
7 be placed in chapter 62A.1 RCW under the heading:

8 **PART 3**

9 **TERRITORIAL APPLICABILITY AND GENERAL RULES**

10 NEW SECTION. **Sec. 1802.** PART HEADINGS. Part headings used in
11 this act are not any part of the law.

12 NEW SECTION. **Sec. 1803.** APPLICABILITY. This act applies to a
13 transaction that is entered into, a document of title that is issued,
14 or a bailment that arises on or after the effective date of this
15 section. This act does not apply to a transaction that is entered
16 into, a document of title that is issued, or a bailment that arises
17 before the effective date of this section even if the transaction,
18 document of title, or bailment would be subject to this act if the
19 transaction had been entered into, the document of title had been
20 issued, or the bailment had arisen on or after the effective date of
21 this section. This act does not apply to a right of action that has
22 accrued before the effective date of this section.

23 NEW SECTION. **Sec. 1804.** SAVINGS CLAUSE. A transaction that is
24 entered into, a document of title that is issued, or a bailment that
25 arises before the effective date of this section and the rights,
26 obligations, and interests flowing from that transaction, document, or
27 bailment are governed by any statute or other rule amended or repealed
28 by this act as if amendment or repeal had not occurred and may be
29 terminated, completed, consummated, or enforced under that statute or
30 other rule.

31 NEW SECTION. **Sec. 1805.** Sections 901, 1402, 1501, 1507, 1510,
32 1513, 1515, and 1517 of this act expire July 1, 2013.

1 NEW SECTION. **Sec. 1806.** Sections 902, 1403, 1502, 1508, 1511,
2 1514, 1516, and 1518 of this act take effect July 1, 2013.

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