

HOUSE BILL 640

By Bricken

AN ACT to amend Tennessee Code Annotated, Title 47,  
relative to the uniform commercial code.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-1-201(b)(10), is amended by deleting the subdivision and substituting:

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

SECTION 2. Tennessee Code Annotated, Section 47-1-201(b)(15), is amended by deleting the subdivision and substituting:

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

SECTION 3. Tennessee Code Annotated, Section 47-1-201(b), is amended by adding the following as a new subdivision:

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

SECTION 4. Tennessee Code Annotated, Section 47-1-201(b)(21)(C), is amended by deleting the subdivision and substituting:

(C) In control, other than pursuant to § 47-7-106(g), of a negotiable electronic document of title;

SECTION 5. Tennessee Code Annotated, Section 47-1-201(b)(24), is amended by deleting the semicolon and substituting:

The term does not include an electronic record that is a medium of exchange recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by the government;

SECTION 6. Tennessee Code Annotated, Section 47-1-201(b)(27), is amended by deleting the subdivision and substituting:

(27) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity. The term includes a protected series, however denominated, of an entity if the protected series is established under law other than chapters 1-9 of this title that limits, or limits if conditions specified under the law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series;

SECTION 7. Tennessee Code Annotated, Section 47-1-201(b)(36), is amended by deleting the subdivision and substituting:

(36) "Send," in connection with a record or notification, means:

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

(B) To cause the record or notification to be received within the time it would have been received if properly sent under subparagraph (A);

SECTION 8. Tennessee Code Annotated, Section 47-1-201(b)(37), is amended by deleting the subdivision and substituting:

(37)

(A) "Sign" means, with present intent to authenticate or adopt a record:

(i) Execute or adopt a tangible symbol; or

(ii) Attach to or logically associate with the record an electronic symbol, sound, or process; and

(B) "Signed," "signing," and "signature" have corresponding meanings;

SECTION 9. Tennessee Code Annotated, Section 47-1-204, is amended by deleting "and 5 of this title" and substituting "5, and 6 of this title".

SECTION 10. Tennessee Code Annotated, Section 47-1-301(c), is amended by adding the following as a new subdivision:

(8) Section 47-6-107;

SECTION 11. Tennessee Code Annotated, Section 47-1-306, is amended by deleting "an authenticated" and substituting "a signed".

SECTION 12. Tennessee Code Annotated, Section 47-2-102, is amended by deleting the section and substituting:

**47-2-102. Scope — Certain security and other transactions excluded from this chapter.**

(1) Unless the context otherwise requires, and except as provided in subsection (3), this chapter applies to transactions in goods and, in the case of a hybrid transaction, it applies to the extent provided in subsection (2).

(2) In a hybrid transaction:

(a) If the sale-of-goods aspects do not predominate, only the provisions of this chapter which relate primarily to the sale-of-goods aspects of the

transaction apply, and the provisions that relate primarily to the transaction as a whole do not apply.

(b) If the sale-of-goods aspects predominate, this chapter applies to the transaction but does not preclude application in appropriate circumstances of other law to aspects of the transaction which do not relate to the sale of goods.

(3) This chapter does not:

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

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

SECTION 13. Tennessee Code Annotated, Section 47-2-106, is amended by deleting the section and substituting:

**47-2-106. Definitions — "Contract" — "Agreement" — "Contract for sale" — "Sale" — "Present sale" — "Conforming to contract" — "Termination" — "Cancellation" — "Hybrid transaction."**

(1) In this chapter unless the context otherwise requires, "contract" and "agreement" are limited to those relating to the present or future sale of goods. "Contract for sale" includes both a present sale of goods and a contract to sell goods at a future time. A "sale" consists in the passing of title from the seller to the buyer for a price (§ 47-2-401). A "present sale" means a sale which is accomplished by the making of the contract.

(2) Goods or conduct, including any part of a performance, are "conforming" or conform to the contract when they are in accordance with the obligations under the contract.

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

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

(5) "Hybrid transaction" means a single transaction involving a sale of goods and:

- (A) The provision of services;
- (B) A lease of other goods; or
- (C) A sale, lease, or license of property other than goods.

SECTION 14. Tennessee Code Annotated, Section 47-2-201, is amended by deleting subdivisions (1) and (2) and substituting:

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

(2) Between merchants if within a reasonable time a record in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) against the

party unless notice in a record of objection to its contents is given within ten (10) days after it is received.

SECTION 15. Tennessee Code Annotated, Section 47-2-202, is amended by deleting the section and substituting:

**47-2-202. Final expression — Parol or extrinsic evidence.**

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

(a) By course of performance, course of dealing, or usage of trade, pursuant to § 47-1-303; and

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

SECTION 16. Tennessee Code Annotated, Section 47-2-203, is amended by deleting "writing" and substituting "record" the two times it appears.

SECTION 17. Tennessee Code Annotated, Section 47-2-205, is amended by deleting "writing" and substituting "record".

SECTION 18. Tennessee Code Annotated, Section 47-2-209(2), is amended by deleting the subdivision and substituting:

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

SECTION 19. Tennessee Code Annotated, Section 47-2A-102, is amended by deleting the section and substituting:

**47-2A-102. Scope.**

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

(2) In a hybrid lease:

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

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

(ii) Section 47-2A-209 applies if the lease is a finance lease; and

(iii) Section 47-2A-407 applies to the promises of the lessee in a finance lease to the extent the promises are consideration for the right to possession and use of the leased goods; and

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

SECTION 20. Tennessee Code Annotated, Section 47-2A-103, is amended by adding the following as a new subdivision:

(h.1) "Hybrid lease" means a single transaction involving a lease of goods and:

(i) The provision of services;

(ii) A sale of other goods; or

(iii) A sale, lease, or license of property other than goods;

SECTION 21. Tennessee Code Annotated, Section 47-2A-107, is amended by deleting the section and substituting:

**47-2A-107. Waiver or renunciation of claim or right after default.**

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

SECTION 22. Tennessee Code Annotated, Section 47-2A-201, is amended by deleting "writing" in subdivision (1)(b) and substituting "record"; by deleting "writing" in subdivision (3) and substituting "record" the two times it appears; and by deleting "writing" in subdivision (5)(a) and substituting "record".

SECTION 23. Tennessee Code Annotated, Section 47-2A-202, is amended by deleting "writing" and substituting "record" the two times it appears.

SECTION 24. Tennessee Code Annotated, Section 47-2A-203, is amended by deleting "writing" and substituting "record" the two times it appears.

SECTION 25. Tennessee Code Annotated, Section 47-2A-205, is amended by deleting "writing" and substituting "record".

SECTION 26. Tennessee Code Annotated, Section 47-2A-208(2), is amended by deleting "writing" and substituting "record".

SECTION 27. Tennessee Code Annotated, Section 47-3-104(a)(3), is amended by deleting "or (iii)" and substituting "(iii)", and by deleting "obligor." and substituting:

obligor, (iv) a term that specifies the law that governs the promise or order, or (v) an undertaking to resolve in a specified forum a dispute concerning the promise or order.

SECTION 28. Tennessee Code Annotated, Section 47-3-105(a), is amended by deleting the subsection and substituting:

(a) "Issue" means:

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

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

SECTION 29. Tennessee Code Annotated, Section 47-3-401, is amended by deleting the section and substituting the following:

**47-3-401. Signature necessary for liability on instrument.**

A person is not liable on an instrument unless (i) the person signed the instrument, or (ii) the person is represented by an agent or representative who signed the instrument and the signature is binding on the represented person under § 47-3-402.

SECTION 30. Tennessee Code Annotated, Section 47-3-604(a), is amended by deleting "writing." and substituting:

record. The obligation of a party to pay a check is not discharged solely by destruction of the check in connection with a process in which information is extracted from the check and an image of the check is made and, subsequently, the information and image are transmitted for payment.

SECTION 31. Tennessee Code Annotated, Section 47-4A-103(a)(1), is amended by deleting "orally, electronically, or in writing" and substituting "orally or in a record".

SECTION 32. Tennessee Code Annotated, Section 47-4A-201, is amended by deleting the section and substituting:

**47-4A-201. Security procedure.**

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

SECTION 33. Tennessee Code Annotated, Section 47-4A-202(b), is amended by deleting the subsection and substituting:

(b) If a bank and its customer have agreed that the authenticity of payment orders issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving bank is effective as the order of the customer, whether or not authorized, if (i) the security procedure is a commercially reasonable method of providing security against unauthorized payment orders, and (ii) the bank proves that it accepted the payment order in good faith and in compliance with the bank's obligations under the security procedure and any agreement or instruction of the customer, evidenced by a record, restricting acceptance of payment orders issued in the name of the customer. The bank is not required to follow an instruction that violates an agreement with the customer, evidenced by a record, or notice of which is not received at a time and in a manner

affording the bank a reasonable opportunity to act on it before the payment order is accepted.

SECTION 34. Tennessee Code Annotated, Section 47-4A-202(c), is amended by deleting the subsection and substituting:

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

SECTION 35. Tennessee Code Annotated, Section 47-4A-203(a)(1), is amended by deleting "By express written agreement" and substituting "By express agreement evidenced by a record".

SECTION 36. Tennessee Code Annotated, Section 47-4A-207(c)(2), is amended by deleting "writing" and substituting "record" in the last sentence of the subdivision.

SECTION 37. Tennessee Code Annotated, Section 47-4A-208(b)(2), is amended by deleting "writing" and substituting "record" in the last sentence of the subdivision.

SECTION 38. Tennessee Code Annotated, Section 47-4A-210(a), is amended by deleting "orally, electronically, or in writing" in the first sentence and substituting "orally or in a record".

SECTION 39. Tennessee Code Annotated, Section 47-4A-211(a), is amended by deleting "orally, electronically, or in writing" in the first sentence and substituting "orally or in a record".

SECTION 40. Tennessee Code Annotated, Section 47-4A-305(c), is amended by deleting the subsection and substituting:

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

SECTION 41. Tennessee Code Annotated, Section 47-4A-305(d), is amended by deleting the last sentence and substituting:

Additional damages, including consequential damages, are recoverable to the extent provided in an express agreement of the receiving bank, evidenced by a record, but are not otherwise recoverable.

SECTION 42. Tennessee Code Annotated, Section 47-5-104, is amended by deleting the section and substituting:

**47-5-104. Formal requirements.**

A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a signed record.

SECTION 43. Tennessee Code Annotated, Section 47-5-116, is amended by deleting the section and substituting:

**47-5-116. Choice of law and forum.**

(a) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed by the affected parties or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

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

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

(d) A branch of a bank is considered to be located at the address indicated in the branch's undertaking. If more than one (1) address is indicated, the branch is considered to be located at the address from which the undertaking was issued.

(e) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the ICC Uniform Customs and Practice for Documentary Credits (UCP 500), to which the letter of credit, confirmation, or other undertaking is expressly made subject. If (i) this chapter would govern the liability of an issuer, nominated person, or adviser under subsection (a) or (b), (ii) the relevant undertaking incorporates rules of custom or practice, and (iii) there is conflict between this chapter and those rules as applied to that

undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in § 47-5-103(c).

(f) If there is conflict between this chapter and chapter 3, 4, 4A, or 9, this chapter governs.

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

SECTION 44. Tennessee Code Annotated, Section 47-7-102(a), is amended by deleting subdivisions (10) and (11) and substituting:

(10) [Reserved.]

(11) [Reserved.]

SECTION 45. Tennessee Code Annotated, Section 47-7-106, is amended by deleting subsection (b) and substituting:

(b) A system satisfies subsection (a), and a person has control of an electronic document of title, if the document is created, stored, and transferred in a manner that:

(1) A single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in subdivisions (b)(4), (5), and (6), unalterable;

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

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

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

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

(4) Copies or amendments that add or change an identified transferee of the authoritative copy can be made only with the consent of the person asserting control;

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

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

(c) A system satisfies subsection (a), and a person has control of an electronic document of title, if an authoritative electronic copy of the document, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

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

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

(3) Gives the person exclusive power, subject to subsection (d), to:

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

(B) Transfer control of each authoritative electronic copy.

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

(1) The authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy, or a system in which the authoritative electronic copy is recorded limits the use of the document of title or

has a protocol that is programmed to cause a change, including a transfer or loss of control; or

(2) The power is shared with another person.

(e) A power of a person is not shared with another person under subsection

(d)(2) and the person's power is not exclusive if:

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

(2) The other person:

(A) Can exercise the power without exercise of the power by the person; or

(B) Is the transferor to the person of an interest in the document of title.

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

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

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

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

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

(i) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this chapter or chapter 9

otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

SECTION 46. Tennessee Code Annotated, Section 47-8-102, is amended by deleting "writing" in subdivision (a)(6)(i) and substituting "record"; and by deleting subsection (b) and substituting:

(b) The following definitions in this chapter and other chapters apply to this chapter:

"Appropriate person." § 47-8-107

"Control." § 47-8-106

"Controllable account." § 47-9-102

"Controllable electronic record." § 47-6-102

"Controllable payment intangible." § 47-9-102

"Delivery." § 47-8-301

"Investment company security." § 47-8-103

"Issuer." § 47-8-201

"Overissue." § 47-8-210

"Protected purchaser." § 47-8-303

"Securities account." § 47-8-501

SECTION 47. Tennessee Code Annotated, Section 47-8-103, is amended by adding the following as a new subsection:

(h) A controllable account, controllable electronic record, or controllable payment intangible is not a financial asset unless § 47-8-102(a)(9)(iii) applies.

SECTION 48. Tennessee Code Annotated, Section 47-8-106(d)(3), is amended by deleting the subdivision and substituting:

(3) Another person, other than the transferor to the purchaser of an interest in the security entitlement:

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

(B) Obtains control of the security entitlement after having acknowledged that it will obtain control of the security entitlement on behalf of the purchaser.

SECTION 49. Tennessee Code Annotated, Section 47-8-106, is amended by adding the following as new subsections:

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

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

SECTION 50. Tennessee Code Annotated, Section 47-8-110, is amended by adding the following as a new subsection:

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

SECTION 51. Tennessee Code Annotated, Section 47-8-303(b), is amended by deleting the subsection and substituting:

(b) A protected purchaser acquires its interest in the security free of any adverse claim.

SECTION 52. Tennessee Code Annotated, Section 47-9-102(a), is amended by deleting subdivisions (2)-(4) and substituting:

(2) "Account," except as used in "account for," "account statement," "account to," "commodity account" in paragraph (14), "customer's account," "deposit account" in paragraph (29), "on account of," and "statement of account," means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes controllable accounts and health-care-insurance receivables. The term does not include (i) chattel paper, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card, or (vii) rights to payment evidenced by an instrument.

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

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

(A) Signed by a secured party;

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

(C) Identifying the components of the obligations in reasonable detail.

SECTION 53. Tennessee Code Annotated, Section 47-9-102(a), is amended by deleting subdivision (7) and substituting:

(7) [Reserved.]

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

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

SECTION 54. Tennessee Code Annotated, Section 47-9-102(a)(11), is amended by deleting the subdivision and substituting:

(11) "Chattel paper":

(A) Means:

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

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

(a) The right to payment and lease agreement are evidenced by a record; and

(b) The predominant purpose of the transaction giving rise to the lease was to give the lessee the right to possession and use of the goods; and

(B) Does not include a right to payment arising out of a charter or other contract involving the use or hire of a vessel or a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

SECTION 55. Tennessee Code Annotated, Section 47-9-102(a), is amended by adding the following as new subdivisions (27A) and (27B):

(27A) "Controllable account" means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under § 47-6-105 of the controllable electronic record.

(27B) "Controllable payment intangible" means a payment intangible evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under § 47-6-105 of the controllable electronic record.

SECTION 56. Tennessee Code Annotated, Section 47-9-102(a), is amended by deleting subdivision (31) and substituting:

(31) [Reserved.]

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

SECTION 57. Tennessee Code Annotated, Section 47-9-102(a), is amended by deleting subdivisions (42) and (43) and substituting:

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

(43) [Reserved.]

SECTION 58. Tennessee Code Annotated, Section 47-9-102(a)(47), is amended by deleting "or (iii)" and substituting "(iii)", and by deleting "for use with the card" and substituting "for use with the card, or (iv) writings that evidence chattel paper".

SECTION 59. Tennessee Code Annotated, Section 47-9-102(a), is amended by adding the following as a new subdivision (54A):

(54A) "Money" has the meaning in § 47-1-201(b)(24), but does not include (i) a deposit account or (ii) money in an electronic form that cannot be subjected to control under § 47-9-105A.

SECTION 60. Tennessee Code Annotated, Section 47-9-102(a)(61), is amended by adding the following to the end of the subdivision:

The term includes a controllable payment intangible.

SECTION 61. Tennessee Code Annotated, Section 47-9-102(a)(66), is amended by deleting "authenticated" and substituting "signed".

SECTION 62. Tennessee Code Annotated, Section 47-9-102(a), is amended by deleting subdivisions (75) and (79) and substituting:

(75) [Reserved.]

(79) [Reserved.]

SECTION 63. Tennessee Code Annotated, Section 47-9-102(a), is amended by adding the following as a new subdivision (79A):

(79A) "Tangible money" means money in a tangible form.

SECTION 64. Tennessee Code Annotated, Section 47-9-102(b), is amended by deleting the subsection and substituting:

**(b) Definitions in other chapters.** "Control" as provided in § 47-7-106 and the following definitions in other chapters apply to this chapter:

"Applicant." § 47-5-102

"Beneficiary." § 47-5-102

"Broker." § 47-8-102

"Certificated security." § 47-8-102

"Check." § 47-3-104

"Clearing corporation." § 47-8-102

"Contract for sale." § 47-2-106

"Controllable electronic record." § 47-6-102

"Customer." § 47-4-104

"Entitlement holder." § 47-8-102

"Financial asset." § 47-8-102

"Holder in due course." § 47-3-302

"Issuer" (with respect to a letter of credit or letter-of-credit right). §47-5-

102

"Issuer" (with respect to a security). § 47-8-201

"Issuer" (with respect to a document of title). § 47-7-102

"Lease." § 47-2A-103

"Lease agreement." § 47-2A-103

"Lease contract." § 47-2A-103  
"Leasehold interest." § 47-2A-103  
"Lessee." § 47-2A-103  
"Lessee in ordinary course of business." § 47-2A-103  
"Lessor." § 47-2A-103  
"Lessor's residual interest." § 47-2A-103  
"Letter of credit." § 47-5-102  
"Merchant." § 47-2-104  
"Negotiable instrument." § 47-3-104  
"Nominated person." § 47-5-102  
"Note." § 47-3-104  
"Proceeds of a letter of credit." § 47-5-114  
"Protected purchaser." § 47-8-303  
"Prove." § 47-3-103  
"Qualifying purchaser." § 47-6-102  
"Sale." § 47-2-106  
"Securities account." § 47-8-501  
"Securities intermediary." § 47-8-102  
"Security." § 47-8-102  
"Security certificate." § 47-8-102  
"Security entitlement." § 47-8-102  
"Uncertificated security." § 47-8-102

SECTION 65. Tennessee Code Annotated, Section 47-9-104(a), is amended by deleting the subsection and substituting:

(a) **Requirements for control.** A secured party has control of a deposit account

if:

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

(2) The debtor, secured party, and bank have agreed in a signed record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor;

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

(4) Another person, other than the debtor:

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

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

SECTION 66. Tennessee Code Annotated, Section 47-9-105, is amended by deleting the section and substituting:

**47-9-105. Control of electronic copy of record evidencing chattel paper.**

(a) **General rule: control of electronic copy of record evidencing chattel paper.** A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if a system employed for evidencing the assignment of interests in the chattel paper reliably establishes the purchaser as the person to which the authoritative electronic copy was assigned.

(b) **Single authoritative copy.** A system satisfies subsection (a) if the record or records evidencing the chattel paper are created, stored, and assigned in a manner that:

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

(2) The authoritative copy identifies the purchaser as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the purchaser or its designated custodian;

(4) Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the purchaser;

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

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

(c) **One or more authoritative copies.** A system satisfies subsection (a), and a purchaser has control of an authoritative electronic copy of a record evidencing chattel paper, if the electronic copy, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

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

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

(3) Gives the purchaser exclusive power, subject to subsection (d), to:

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

(B) Transfer control of the authoritative electronic copy.

(d) **Meaning of exclusive.** Subject to subsection (e), a power is exclusive under subsections (c)(3)(A) and (B) even if:

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

(2) The power is shared with another person.

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

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

(2) The other person:

(A) Can exercise the power without exercise of the power by the purchaser; or

(B) Is the transferor to the purchaser of an interest in the chattel paper.

(f) **Presumption of exclusivity of certain powers.** If a purchaser has the powers specified in subsections (c)(3)(A) and (B), the powers are presumed to be exclusive.

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

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

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

SECTION 67. Tennessee Code Annotated, Title 47, Chapter 9, Part 1, is amended by adding the following as new sections:

**47-9-105A. Control of electronic money.**

(a) **General rule: control of electronic money.** A person has control of electronic money if:

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

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

(B) Exclusive power, subject to subsection (b), to:

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

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

(2) The electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded enables the person readily to identify itself in any way,

including by name, identifying number, cryptographic key, office, or account number, as having the powers under paragraph (1).

(b) **Meaning of exclusive.** Subject to subsection (c), a power is exclusive under subsections (a)(1)(B)(i) and (ii) even if:

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

(2) The power is shared with another person.

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

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

(2) The other person:

(A) Can exercise the power without exercise of the power by the person; or

(B) Is the transferor to the person of an interest in the electronic money.

(d) **Presumption of exclusivity of certain powers.** If a person has the powers specified in subsections (a)(1)(B)(i) and (ii), the powers are presumed to be exclusive.

(e) **Control through another person.** A person has control of electronic money if another person, other than the transferor to the person of an interest in the electronic money:

(1) Has control of the electronic money and acknowledges that it has

control on behalf of the person; or

(2) Obtains control of the electronic money after having acknowledged that it will obtain control of the electronic money on behalf of the person.

**47-9-107A. Control of controllable electronic record, controllable account, or controllable payment intangible.**

(a) **Control under § 47-6-105.** A secured party has control of a controllable electronic record as provided in § 47-6-105.

(b) **Control of controllable account and controllable payment intangible.** A secured party has control of a controllable account or controllable payment intangible if the secured party has control of the controllable electronic record that evidences the controllable account or controllable payment intangible.

**47-9-107B. No requirement to acknowledge or confirm; no duties.**

(a) **No requirement to acknowledge.** A person that has control under § 47-9-104, § 47-9-105, or § 47-9-105A is not required to acknowledge that it has control on behalf of another person.

(b) **No duties or confirmation.** If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this chapter otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

SECTION 68. Tennessee Code Annotated, Section 47-9-203(b)(3), is amended by deleting the subdivision and substituting:

(3) One (1) of the following conditions is met:

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

(B) The collateral is not a certificated security and is in the possession of the secured party under § 47-9-313 pursuant to the debtor's security agreement;

(C) The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under § 47-8-301 pursuant to the debtor's security agreement;

(D) The collateral is controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property, or letter-of-credit rights, and the secured party has control under § 47-7-106, § 47-9-104, § 47-9-105A, § 47-9-106, § 47-9-107, or § 47-9-107A pursuant to the debtor's security agreement;  
or

(E) The collateral is chattel paper and the secured party has possession and control under § 47-9-314A pursuant to the debtor's security agreement.

SECTION 69. Tennessee Code Annotated, Section 47-9-204(b), is amended by deleting the subsection and substituting:

(b) **When after-acquired property clause not effective.** Subject to subsection (b.1), a security interest does not attach under a term constituting an after-acquired property clause to:

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

(2) A commercial tort claim.

(b.1) **Limitation on subsection (b).** Subsection (b) does not prevent a security interest from attaching:

(1) To consumer goods as proceeds under § 47-9-315(a) or commingled

goods under § 47-9-336(c);

(2) To a commercial tort claim as proceeds under § 47-9-315(a); or

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

SECTION 70. Tennessee Code Annotated, Section 47-9-207(c), is amended by deleting "§ 47-7-106, § 47-9-104, § 47-9-105, § 47-9-106, or § 47-9-107" and substituting "§ 47-7-106, § 47-9-104, § 47-9-105, § 47-9-105A, § 47-9-106, § 47-9-107, or § 47-9-107A".

SECTION 71. Tennessee Code Annotated, Section 47-9-208(b), is amended by deleting the subsection and substituting:

(b) **Duties of secured party after receiving demand from debtor.** Within ten (10) days after receiving a signed demand by the debtor:

(1) A secured party having control of a deposit account under § 47-9-104(a)(2) shall send to the bank with which the deposit account is maintained a signed record that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) A secured party having control of a deposit account under § 47-9-104(a)(3) shall:

(A) Pay the debtor the balance on deposit in the deposit account;

or

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

(3) A secured party, other than a buyer, having control under § 47-9-105 of an authoritative electronic copy of a record evidencing chattel paper shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(4) A secured party having control of investment property under § 47-8-106(d)(2) or § 47-9-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained a signed record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party;

(5) A secured party having control of a letter-of-credit right under § 47-9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party a signed release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party;

(6) A secured party having control under § 47-7-106 of an authoritative electronic copy of an electronic document of title shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(7) A secured party having control under § 47-9-105A of electronic money shall transfer control of the electronic money to the debtor or a person designated by the debtor; and

(8) A secured party having control under § 47-6-105 of a controllable electronic record, other than a buyer of a controllable account or controllable payment intangible evidenced by the controllable electronic record, shall transfer control of the controllable electronic record to the debtor or a person designated by the debtor.

SECTION 72. Tennessee Code Annotated, Section 47-9-209(b), is amended by deleting the subsection and substituting:

(b) **Duties of secured party after receiving demand from debtor.** Within ten

(10) days after receiving a signed demand by the debtor, a secured party shall send to an account debtor that has received notification under § 47-9-406(a) or § 47-6-106(b) of an assignment to the secured party as assignee a signed record that releases the account debtor from any further obligation to the secured party.

SECTION 73. Tennessee Code Annotated, Section 47-9-210(a), is amended by deleting subdivisions (2), (3), and (4) and substituting:

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

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

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

SECTION 74. Tennessee Code Annotated, Section 47-9-210, is amended by deleting "authenticating" where it appears in subdivisions (b)(1) and (b)(2) and substituting "signing"; and by deleting "an authenticated" in subsections (c), (d), and (e) and substituting "a signed".

SECTION 75. Tennessee Code Annotated, Section 47-9-301, is amended by deleting "Except as otherwise provided in §§ 47-9-303 through 47-9-306" and substituting "Except as otherwise provided in §§ 47-9-303 through 47-9-306B".

SECTION 76. Tennessee Code Annotated, Section 47-9-301(3), is amended by deleting the subdivision and substituting:

(3) Except as otherwise provided in paragraph (4), while negotiable tangible documents, goods, instruments, or tangible money is located in a jurisdiction, the local law of that jurisdiction governs:

- (A) Perfection of a security interest in the goods by filing a fixture filing;
- (B) Perfection of a security interest in timber to be cut; and
- (C) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

SECTION 77. Tennessee Code Annotated, Section 47-9-304(a), is amended by deleting the subsection and substituting:

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

SECTION 78. Tennessee Code Annotated, Section 47-9-305(a), is amended by adding the following as a new subdivision (5):

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

SECTION 79. Tennessee Code Annotated, Title 47, Chapter 9, Part 3, is amended by adding the following as new sections:

**47-9-306A. Law governing perfection and priority of security interests in chattel paper.**

(a) **Chattel paper evidenced by authoritative electronic copy.** Except as provided in subsection (d), if chattel paper is evidenced only by an authoritative

electronic copy of the chattel paper or is evidenced by an authoritative electronic copy and an authoritative tangible copy, the local law of the chattel paper's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the chattel paper, even if the transaction does not bear any relation to the chattel paper's jurisdiction.

(b) **Chattel paper's jurisdiction.** The following rules determine the chattel paper's jurisdiction under this section:

(1) If the authoritative electronic copy of the record evidencing chattel paper, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part, this chapter, or chapters 1-9 of this title, that jurisdiction is the chattel paper's jurisdiction.

(2) If paragraph (1) does not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part, this chapter, or chapters 1-9 of this title, that jurisdiction is the chattel paper's jurisdiction.

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

(4) If paragraphs (1), (2), and (3) do not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that the chattel paper or the system is governed by

the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction.

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

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

(1) Perfection of a security interest in the chattel paper by possession under § 47-9-314A; and

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

(d) **When perfection governed by law of jurisdiction where debtor located.**

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

**47-9-306B. Law governing perfection and priority of security interests in controllable accounts, controllable electronic records, and controllable payment intangibles.**

(a) **Governing law: general rules.** Except as provided in subsection (b), the local law of the controllable electronic record's jurisdiction specified in § 47-6-107(c) and (d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a controllable electronic record and a security interest in a controllable account or controllable payment intangible evidenced by the controllable electronic record.

**(b) When perfection governed by law of jurisdiction where debtor located.**

The local law of the jurisdiction in which the debtor is located governs:

- (1) Perfection of a security interest in a controllable account, controllable electronic record, or controllable payment intangible by filing; and
- (2) Automatic perfection of a security interest in a controllable payment intangible created by a sale of the controllable payment intangible.

SECTION 80. Tennessee Code Annotated, Section 47-9-310(b)(8), is amended by deleting the subdivision and substituting:

(8) in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, investment property, or letter-of-credit rights which is perfected by control under § 47-9-314;

(8.1) in chattel paper which is perfected by possession and control under § 47-9-314A;

SECTION 81. Tennessee Code Annotated, Section 47-9-312, is amended by deleting the section and substituting:

**47-9-312. Perfection of security interests in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, negotiable documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.**

(a) **Perfection by filing permitted.** A security interest in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, instruments, investment property, or negotiable documents may be perfected by filing.

(b) **Control or possession of certain collateral.** Except as otherwise provided in § 47-9-315(c) and (d) for proceeds:

(1) A security interest in a deposit account may be perfected only by control under § 47-9-314;

(2) Except as otherwise provided in § 47-9-308(d), a security interest in a letter-of-credit right may be perfected only by control under § 47-9-314;

(3) A security interest in tangible money may be perfected only by the secured party's taking possession under § 47-9-313; and

(4) A security interest in electronic money may be perfected only by control under § 47-9-314.

(c) **Goods covered by negotiable document.** While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

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

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

(d) **Goods covered by nonnegotiable document.** While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

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

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

(3) Filing as to the goods.

(e) **Temporary perfection: new value.** A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of twenty (20) days from the time it attaches to the extent that it arises for new value given under a signed security agreement.

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

(1) Ultimate sale or exchange; or

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

(g) **Temporary perfection: delivery of security certificate or instrument to debtor.** A perfected security interest in a certificated security or instrument remains perfected for twenty (20) days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(1) Ultimate sale or exchange; or

(2) Presentation, collection, enforcement, renewal, or registration of transfer.

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

SECTION 82. Tennessee Code Annotated, Section 47-9-313, is amended by deleting subsections (a), (c), and (d) and substituting:

(a) **Perfection by possession or delivery.** Except as otherwise provided in subsection (b), a secured party may perfect a security interest in goods, instruments, negotiable tangible documents, or tangible money by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking

delivery of the certificated securities under § 47-8-301.

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

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

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

(d) **Time of perfection by possession; continuation of perfection.** If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs not earlier than the time the secured party takes possession and continues only while the secured party retains possession.

SECTION 83. Tennessee Code Annotated, Section 47-9-314, is amended by deleting the section and substituting:

**47-9-314. Perfection by control.**

(a) **Perfection by control.** A security interest in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property, or letter-of-credit rights may be perfected by control of the collateral under § 47-7-106, § 47-9-104, § 47-9-105A, § 47-9-106, § 47-9-107, or § 47-9-107A.

(b) **Specified collateral: time of perfection by control; continuation of perfection.** A security interest in controllable accounts, controllable electronic records,

controllable payment intangibles, deposit accounts, electronic documents, electronic money, or letter-of-credit rights is perfected by control under § 47-7-106, § 47-9-104, § 47-9-105A, § 47-9-107, or § 47-9-107A not earlier than the time the secured party obtains control and remains perfected by control only while the secured party retains control.

**(c) Investment property: time of perfection by control; continuation of perfection.** A security interest in investment property is perfected by control under § 47-9-106 not earlier than the time the secured party obtains control and remains perfected by control until:

(1) The secured party does not have control; and

(2) One (1) of the following occurs:

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

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

(C) If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

**47-9-314A. Perfection by possession and control of chattel paper.**

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

(b) **Time of perfection; continuation of perfection.** A security interest is perfected under subsection (a) not earlier than the time the secured party takes possession and obtains control and remains perfected under subsection (a) only while

the secured party retains possession and control.

(c) **Application of § 47-9-313 to perfection by possession of chattel paper.**

Section 47-9-313(c) and (f) through (i) apply to perfection by possession of an authoritative tangible copy of a record evidencing chattel paper.

SECTION 84. Tennessee Code Annotated, Section 47-9-316(a), is amended by deleting "§ 47-9-301(1) or § 47-9-305(c)" and substituting "§ 47-9-301(1), § 47-9-305(c), § 47-9-306A(d), or § 47-9-306B(b)".

SECTION 85. Tennessee Code Annotated, Section 47-9-316(f), is amended by deleting the subsection and substituting:

(f) **Change in jurisdiction of chattel paper, controllable electronic record, bank, issuer, nominated person, securities intermediary, or commodity intermediary.**

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

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

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

SECTION 86. Tennessee Code Annotated, Section 47-9-317(b), is amended by deleting subsections (b) and (d) and substituting:

(b) **Buyers that receive delivery.** Except as otherwise provided in subsection

(e), a buyer, other than a secured party, of goods, instruments, tangible documents, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) **Licensees and buyers of certain collateral.** Subject to subsections (f) through (i), a licensee of a general intangible or a buyer, other than a secured party, of collateral other than electronic money, goods, instruments, tangible documents, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

SECTION 87. Tennessee Code Annotated, Section 47-9-317, is amended by adding the following as new subsections:

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

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

(2) If each authoritative electronic copy of the record evidencing the chattel paper can be subjected to control under § 47-9-105, obtains control of each authoritative electronic copy.

(g) **Buyers of electronic documents.** A buyer of an electronic document takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and, if each authoritative electronic copy of the document can be subjected to control under § 47-7-106, obtains control of each authoritative electronic copy.

(h) **Buyers of controllable electronic records.** A buyer of a controllable

electronic record takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable electronic record.

(i) **Buyers of controllable accounts and controllable payment intangibles.**

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

SECTION 88. Tennessee Code Annotated, Section 47-9-323, is amended by deleting subsections (d) and (f) and substituting:

(d) **Buyer of goods.** Except as otherwise provided in subsection (e), a buyer of goods takes free of a security interest to the extent that it secures advances made after the earlier of:

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

(2) Forty-five (45) days after the purchase.

(f) **Lessee of goods.** Except as otherwise provided in subsection (g), a lessee of goods takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(1) The time the secured party acquires knowledge of the lease; or

(2) Forty-five (45) days after the lease contract becomes enforceable.

SECTION 89. Tennessee Code Annotated, Section 47-9-324, is amended by deleting "an authenticated" in subdivisions (b)(2) and (d)(2) and substituting "a signed".

SECTION 90. Tennessee Code Annotated, Title 47, Chapter 9, Part 3, is amended by adding the following as a new section:

**47-9-326A. Priority of security interest in controllable account, controllable electronic record, and controllable payment intangible.**

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

SECTION 91. Tennessee Code Annotated, Section 47-9-330, is amended by deleting subsections (a), (b), and (f) and substituting:

(a) **Purchaser's priority: security interest claimed merely as proceeds.** A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value, takes possession of each authoritative tangible copy of the record evidencing the chattel paper, and obtains control under § 47-9-105 of each authoritative electronic copy of the record evidencing the chattel paper; and

(2) The authoritative copies of the record evidencing the chattel paper do not indicate that the chattel paper has been assigned to an identified assignee other than the purchaser.

(b) **Purchaser's priority: other security interests.** A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value, takes possession of each authoritative tangible copy of the record evidencing the chattel paper, and obtains control under § 47-9-105 of each authoritative electronic copy of the record evidencing the chattel paper in good faith, in the ordinary course of the

purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(f) **Indication of assignment gives knowledge.** For purposes of subsections (b) and (d), if the authoritative copies of the record evidencing chattel paper or an instrument indicate that the chattel paper or instrument has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

SECTION 92. Tennessee Code Annotated, Section 47-9-331, is amended by deleting the section and substituting:

**47-9-331. Priority of rights of purchasers of controllable accounts, controllable electronic records, controllable payment intangibles, documents, instruments, and securities under other chapters; priority of interests in financial assets and security entitlements and protection against assertion of claim under chapters 8 and 12.**

(a) **Rights under chapters 3, 6, 7, and 8 not limited.** This chapter does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, a protected purchaser of a security, or a qualifying purchaser of a controllable account, controllable electronic record, or controllable payment intangible. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in chapters 3, 6, 7, and 8.

(b) **Protection under chapters 6 and 8.** This chapter does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under chapter 6 or 8.

(c) **Filing not notice.** Filing under this chapter does not constitute notice of a

claim or defense to the holders, or purchasers, or persons described in subsections (a) and (b).

SECTION 93. Tennessee Code Annotated, Section 47-9-332, is amended by deleting the section and substituting:

**47-9-332. Transfer of money; transfer of funds from deposit account.**

(a) **Transferee of tangible money.** A transferee of tangible money takes the money free of a security interest if the transferee receives possession of the money without acting in collusion with the debtor in violating the rights of the secured party.

(b) **Transferee of funds from deposit account.** A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account if the transferee receives the funds without acting in collusion with the debtor in violating the rights of the secured party.

(c) **Transferee of electronic money.** A transferee of electronic money takes the money free of a security interest if the transferee obtains control of the money without acting in collusion with the debtor in violating the rights of the secured party.

SECTION 94. Tennessee Code Annotated, Section 47-9-334(f)(1), is amended by deleting "an authenticated" and substituting "a signed".

SECTION 95. Tennessee Code Annotated, Section 47-9-341, is amended by deleting "an authenticated" and substituting "a signed".

SECTION 96. Tennessee Code Annotated, Section 47-9-404(a)(2), is amended by deleting "authenticated" and substituting "signed".

SECTION 97. Tennessee Code Annotated, Section 47-9-406(a), is amended by deleting "Subject to subsections (b) through (i)" and substituting "Subject to subsections (b) through (i) and (l)"; and by deleting "authenticated" and substituting "signed".

SECTION 98. Tennessee Code Annotated, Section 47-9-406(b), is amended by

deleting "Subject to subsection (h)" and substituting "Subject to subsections (h) and (l)".

SECTION 99. Tennessee Code Annotated, Section 47-9-406(c), is amended by deleting "Subject to subsection (h)" and substituting "Subject to subsections (h) and (l)".

SECTION 100. Tennessee Code Annotated, Section 47-9-406(d), is amended by deleting "Except as otherwise provided" and substituting "In this subsection (d), "promissory note" includes a negotiable instrument that evidences chattel paper. Except as otherwise provided".

SECTION 101. Tennessee Code Annotated, Section 47-9-406(g), is amended by deleting "Subject to subsection (h)" and substituting "Subject to subsections (h) and (l)".

SECTION 102. Tennessee Code Annotated, Section 47-9-406, is amended by adding the following as a new subsection (l):

(l) **Inapplicability of certain subsections.** Subsections (a), (b), (c), and (g) do not apply to a controllable account or controllable payment intangible.

SECTION 103. Tennessee Code Annotated, Section 47-9-408, is amended by adding the following as new subsections:

(f) [Reserved.]

(g) **"Promissory note."** In this section, "promissory note" includes a negotiable instrument that evidences chattel paper.

SECTION 104. Tennessee Code Annotated, Section 47-9-509, is amended by deleting "an authenticated" in subdivision (a)(1) and substituting "a signed", and by deleting "authenticating" in subsection (b) and substituting "signing".

SECTION 105. Tennessee Code Annotated, Section 47-9-513, is amended by deleting "an authenticated" in subdivision (b)(2) and subsection (c) and substituting "a signed".

SECTION 106. Tennessee Code Annotated, Section 47-9-601(b), is amended by deleting the subsection and substituting:

(b) **Rights and duties of secured party in possession or control.** A secured party in possession of collateral or control of collateral under § 47-7-106, § 47-9-104, § 47-9-105, § 47-9-105A, § 47-9-106, § 47-9-107, or § 47-9-107A has the rights and duties provided in § 47-9-207.

SECTION 107. Tennessee Code Annotated, Section 47-9-605, is amended by deleting the section and substituting:

**47-9-605. Unknown debtor or secondary obligor.**

(a) **In general: no duty owed by secured party.** Except as provided in subsection (b), a secured party does not owe a duty based on its status as a secured party:

(1) To a person that is a debtor or obligor, unless the secured party

knows:

(A) That the person is a debtor or obligor;

(B) The identity of the person; and

(C) How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) That the person is a debtor; and

(B) The identity of the person.

(b) **Exception: secured party owes duty to debtor or obligor.** A secured party owes a duty based on its status as a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

(1) The person is a debtor or obligor; and

(2) The secured party knows that the information in subsection (a)(1)(A), (B), or (C) relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.

SECTION 108. Tennessee Code Annotated, Section 47-9-608(a)(1)(C), is amended by deleting "an authenticated" and substituting "a signed".

SECTION 109. Tennessee Code Annotated, Section 47-9-611, is amended by deleting "an authenticated" in subdivision (a)(1) and substituting "a signed"; by deleting "authenticated" in subsection (b) and substituting "signed"; by deleting "an authenticated" in subsection (c) and substituting "a signed" where it appears twice; and by deleting "an authenticated" in subdivision (e)(2)(B) and substituting "a signed".

SECTION 110. Tennessee Code Annotated, Section 47-9-613, is amended by deleting the section and substituting:

**47-9-613. Contents and form of notification before disposition of collateral:**

**General.**

(a) **Contents and form of notification.** Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) describes the debtor and the secured party;

(B) describes the collateral that is the subject of the intended disposition;

(C) states the method of intended disposition;

(D) states that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(E) states the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in paragraph (1) are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in paragraph (1) are sufficient, even if the notification includes:

(A) information not specified by that paragraph; or

(B) minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in § 47-9-614(a)(3), when completed in accordance with the instructions in subsection (b) and § 47-9-614(b), each provides sufficient information:

**NOTIFICATION OF DISPOSITION OF COLLATERAL**

To: *(Name of debtor, obligor, or other person to which the notification is sent)*

From: *(Name, address, and telephone number of secured party)*

{1} Name of any debtor that is not an addressee: *(Name of each debtor)*

{2} We will sell *(describe collateral)* *(to the highest qualified bidder)* at public sale. A sale could include a lease or license. The sale will be held as follows:

*(Date)*

*(Time)*

*(Place)*

{3} We will sell *(describe collateral)* at private sale sometime after *(date)*. A sale could include a lease or license.

{4} You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell or, as applicable, lease or license.

{5} If you request an accounting, you must pay a charge of \$ (*amount*).

{6} You may request an accounting by calling us at (*telephone number*).

**[End of Form]**

(b) **Instructions for form of notification.** The following instructions apply to the form of notification in subsection (a)(5):

(1) The instructions in this subsection refer to the numbers in braces before items in the form of notification in subsection (a)(5). Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.

(2) Include and complete item {1} only if there is a debtor that is not an addressee of the notification and list the name or names.

(3) Include and complete either item {2}, if the notification relates to a public disposition of the collateral, or item {3}, if the notification relates to a private disposition of the collateral. If item {2} is included, include the words "to the highest qualified bidder" only if applicable.

(4) Include and complete items {4} and {6}.

(5) Include and complete item {5} only if the sender will charge the recipient for an accounting.

SECTION 111. Tennessee Code Annotated, Section 47-9-614, is amended by deleting the section and substituting:

**47-9-614. Contents and form of notification before disposition of collateral: Consumer-goods transaction.**

(a) **Contents and form of notification.** In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) The information specified in § 47-9-613(a)(1);

(B) A description of any liability for a deficiency of the person to which the notification is sent;

(C) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under § 47-9-623 is available; and

(D) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed in accordance with the instructions in subsection (b), provides sufficient information:

*(Name and address of secured party)*

*(Date)*

#### **NOTICE OF OUR PLAN TO SELL PROPERTY**

*(Name and address of any obligor who is also a debtor)*

Subject: *(Identify transaction)*

We have your *(describe collateral)*, because you broke promises in our agreement.

{1} We will sell *(describe collateral)* at public sale. A sale could include a lease or license. The sale will be held as follows:

*(Date)*

*(Time)*

*(Place)*

You may attend the sale and bring bidders if you want.

{2} We will sell *(describe collateral)* at private sale sometime after *(date)*. A sale could

include a lease or license.

{3} The money that we get from the sale, after paying our costs, will reduce the amount you owe. If we get less money than you owe, you *(will or will not, as applicable)* still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

{4} You can get the property back at any time before we sell it by paying us the full amount you owe, not just the past due payments, including our expenses. To learn the exact amount you must pay, call us at (telephone number).

{5} If you want us to explain to you in *(writing) (writing or in (description of electronic record)) (description of electronic record)* how we have figured the amount that you owe us, {6} call us at *(telephone number) (or) (write us at (secured party's address)) (or contact us by (description of electronic communication method))* {7} and request *(a written explanation) (a written explanation or an explanation in (description of electronic record)) (an explanation in (description of electronic record))*.

{8} We will charge you \$ *(amount)* for the explanation if we sent you another written explanation of the amount you owe us within the last six months.

{9} If you need more information about the sale *(call us at (telephone number)) (or) (write us at (secured party's address)) (or contact us by (description of electronic communication method))*.

{10} We are sending this notice to the following other people who have an interest in *(describe collateral)* or who owe money under your agreement:

*(Names of all other debtors and obligors, if any)*

**[End of Form]**

(4) A notification in the form of paragraph (3) is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of paragraph (3) is sufficient, even if it includes errors in information not required by paragraph (1), unless the error is misleading with respect to rights arising under this chapter.

(6) If a notification under this section is not in the form of paragraph (3), law other than this chapter determines the effect of including information not required by paragraph (1).

(b) **Instructions for form of notification.** The following instructions apply to the form of notification in subsection (a)(3):

(1) The instructions in this subsection refer to the numbers in braces before items in the form of notification in subsection (a)(3). Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.

(2) Include and complete either item {1}, if the notification relates to a public disposition of the collateral, or item {2}, if the notification relates to a private disposition of the collateral.

(3) Include and complete items {3}, {4}, {5}, {6}, and {7}.

(4) In item {5}, include and complete any one of the three alternative methods for the explanation—writing, writing or electronic record, or electronic record.

(5) In item {6}, include the telephone number. In addition, the sender may include and complete either or both of the two additional alternative methods of communication—writing or electronic communication—for the recipient of the notification to communicate with the sender. Neither of the two additional methods of communication is required to be included.

(6) In item {7}, include and complete the method or methods for the

explanation—writing, writing or electronic record, or electronic record—included in item {5}.

(7) Include and complete item {8} only if a written explanation is included in item {5} as a method for communicating the explanation and the sender will charge the recipient for another written explanation.

(8) In item {9}, include either the telephone number or the address or both the telephone number and the address. In addition, the sender may include and complete the additional method of communication—electronic communication—for the recipient of the notification to communicate with the sender. The additional method of electronic communication is not required to be included.

(9) If item {10} does not apply, insert "None" after "agreement:".

SECTION 112. Tennessee Code Annotated, Section 47-9-615, is amended by deleting "an authenticated" in subdivisions (a)(3)(A) and (a)(4) and substituting "a signed".

SECTION 113. Tennessee Code Annotated, Section 47-9-616, is amended by deleting "means a writing" in subdivision (a)(1) and substituting "means a record"; by deleting "Authenticated" in subdivision (a)(2)(A) and substituting "Signed"; by deleting "first makes written demand" in subdivision (b)(1)(A) and substituting "first makes demand in a record"; and by deleting "To comply with subsection (a)(1)(B), a writing" in subsection (c) and substituting "To comply with subsection (a)(1)(B), an explanation".

SECTION 114. Tennessee Code Annotated, Section 47-9-619(a), is amended by deleting "authenticated" and substituting "signed".

SECTION 115. Tennessee Code Annotated, Section 47-9-620, is amended by deleting "proposal authenticated" in subdivision (a)(2) and substituting "proposal signed"; by deleting "an authenticated" in subdivision (b)(1) and substituting "a signed"; by deleting "record

authenticated" in subdivisions (c)(1) and (c)(2) and substituting "record signed"; by deleting "objection authenticated" in subdivision (c)(2)(C) and substituting "objection signed"; and by deleting "and authenticated" in subdivision (f)(2) and substituting "and signed".

SECTION 116. Tennessee Code Annotated, Section 47-9-621(a)(1), is amended by deleting "an authenticated" and substituting "a signed".

SECTION 117. Tennessee Code Annotated, Section 47-9-624, is amended by deleting "authenticated" and substituting "signed" where it appears three times.

SECTION 118. Tennessee Code Annotated, Section 47-9-628, is amended by deleting "Unless a secured party" in subsection (a) and substituting "Subject to subsection (f), unless a secured party"; by deleting "A secured party" in subsection (b) and substituting "Subject to subsection (f), a secured party"; and by adding the following as a new subsection (f):

(f) **Exception: Limitation of liability under subsections (a) and (b) does not apply.** Subsections (a) and (b) do not apply to limit the liability of a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

(1) The person is a debtor or obligor; and

(2) The secured party knows that the information in subsection (b)(1)(A), (B), or (C) relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.

SECTION 119. Tennessee Code Annotated, Title 47, is amended by adding the following as a new **Chapter 6: Controllable Electronic Records:**

**47-6-101. Short title.**

This chapter is known and may be cited as the "Uniform Commercial Code—

Controllable Electronic Records."

**47-6-102. Chapter definitions.**

(a) **Chapter 6 definitions.** In this chapter:

(1) "Controllable electronic record" means a record stored in an electronic medium that can be subjected to control under § 47-6-105. The term does not include a controllable account, a controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic document of title, electronic money, investment property, or a transferable record.

(2) "Qualifying purchaser" means a purchaser of a controllable electronic record or an interest in a controllable electronic record that obtains control of the controllable electronic record for value, in good faith, and without notice of a claim of a property right in the controllable electronic record.

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

(A) Section 201(a)(1) of the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7021(a)(1)), as amended; or

(B) Section 47-10-116(a).

(4) "Value" has the meaning provided in § 47-3-303(a), as if references in that subsection to an "instrument" were references to a controllable account, controllable electronic record, or controllable payment intangible.

(b) **Definitions in chapter 9.** The definitions in chapter 9 of "account debtor", "controllable account", "controllable payment intangible", "chattel paper", "deposit account", "electronic money", and "investment property" apply to this chapter.

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

**47-6-103. Relation to chapter 9 and consumer laws.**

(a) **Chapter 9 governs in case of conflict.** If there is conflict between this chapter and chapter 9, chapter 9 governs.

(b) **Applicable consumer law and other laws.** A transaction subject to this chapter is subject to any applicable rule of law that establishes a different rule for consumers and to appropriate statutes regulating loans, retail installment sales, or consumer protection, insofar as any such statute by its specific terms applies to the transaction.

**47-6-104. Rights in controllable account, controllable electronic record, and controllable payment intangible.**

(a) **Applicability of section to controllable account and controllable payment intangible.** This section applies to the acquisition and purchase of rights in a controllable account or controllable payment intangible, including the rights and benefits under subsections (c), (d), (e), (g), and (h) of a purchaser and qualifying purchaser, in the same manner this section applies to a controllable electronic record.

(b) **Control of controllable account and controllable payment intangible.** To determine whether a purchaser of a controllable account or a controllable payment intangible is a qualifying purchaser, the purchaser obtains control of the account or payment intangible if it obtains control of the controllable electronic record that evidences the account or payment intangible.

(c) **Applicability of other law to acquisition of rights.** Except as provided in this section, law other than this chapter determines whether a person acquires a right in

a controllable electronic record and the right the person acquires.

(d) **Shelter principle and purchase of limited interest.** A purchaser of a controllable electronic record acquires all rights in the controllable electronic record that the transferor had or had power to transfer, except that a purchaser of a limited interest in a controllable electronic record acquires rights only to the extent of the interest purchased.

(e) **Rights of qualifying purchaser.** A qualifying purchaser acquires its rights in the controllable electronic record free of a claim of a property right in the controllable electronic record.

(f) **Limitation of rights of qualifying purchaser in other property.** Except as provided in subsections (a) and (e) for a controllable account and a controllable payment intangible or law other than this chapter, a qualifying purchaser takes a right to payment, right to performance, or other interest in property evidenced by the controllable electronic record subject to a claim of a property right in the right to payment, right to performance, or other interest in property.

(g) **No-action protection for qualifying purchaser.** An action may not be asserted against a qualifying purchaser based on both a purchase by the qualifying purchaser of a controllable electronic record and a claim of a property right in another controllable electronic record, whether the action is framed in conversion, replevin, constructive trust, equitable lien, or other theory.

(h) **Filing not notice.** Filing of a financing statement under chapter 9 is not notice of a claim of a property right in a controllable electronic record.

#### **47-6-105. Control of controllable electronic record.**

(a) **General rule: control of controllable electronic record.** A person has control of a controllable electronic record if the electronic record, a record attached to or

logically associated with the electronic record, or a system in which the electronic record is recorded:

(1) Gives the person:

(A) Power to avail itself of substantially all the benefit from the electronic record; and

(B) Exclusive power, subject to subsection (b), to:

(i) Prevent others from availing themselves of substantially all the benefit from the electronic record; and

(ii) Transfer control of the electronic record to another person or cause another person to obtain control of another controllable electronic record as a result of the transfer of the electronic record; and

(2) Enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as having the powers specified in paragraph (1).

(b) **Meaning of exclusive.** Subject to subsection (c), a power is exclusive under subsection (a)(1)(B)(i) and (ii) even if:

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

(2) The power is shared with another person.

(c) **When power not shared with another person.** A power of a person is not shared with another person under subsection (b)(2) and the person's power is not

exclusive if:

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

(2) The other person:

(A) Can exercise the power without exercise of the power by the person; or

(B) Is the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record.

(d) **Presumption of exclusivity of certain powers.** If a person has the powers specified in subsection (a)(1)(B)(i) and (ii), the powers are presumed to be exclusive.

(e) **Control through another person.** A person has control of a controllable electronic record if another person, other than the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record:

(1) Has control of the electronic record and acknowledges that it has control on behalf of the person; or

(2) Obtains control of the electronic record after having acknowledged that it will obtain control of the electronic record on behalf of the person.

(f) **No requirement to acknowledge.** A person that has control under this section is not required to acknowledge that it has control on behalf of another person.

(g) **No duties or confirmation.** If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this chapter or chapter 9 otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other

person.

**47-6-106. Discharge of account debtor on controllable account or controllable payment intangible.**

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

- (1) The person having control of the controllable electronic record that evidences the controllable account or controllable payment intangible; or
- (2) Except as provided in subsection (b), a person that formerly had control of the controllable electronic record.

(b) **Content and effect of notification.** Subject to subsection (d), the account debtor may not discharge its obligation by paying a person that formerly had control of the controllable electronic record if the account debtor receives a notification that:

- (1) Is signed by a person that formerly had control or the person to which control was transferred;
- (2) Reasonably identifies the controllable account or controllable payment intangible;
- (3) Notifies the account debtor that control of the controllable electronic record that evidences the controllable account or controllable payment intangible was transferred;
- (4) Identifies the transferee, in any reasonable way, including by name, identifying number, cryptographic key, office, or account number; and
- (5) Provides a commercially reasonable method by which the account debtor is to pay the transferee.

(c) **Discharge following effective notification.** After receipt of a notification that complies with subsection (b), the account debtor may discharge its obligation by

paying in accordance with the notification and may not discharge the obligation by paying a person that formerly had control.

(d) **When notification ineffective.** Subject to subsection (h), notification is ineffective under subsection (b):

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

(2) To the extent an agreement between the account debtor and seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this chapter; or

(3) At the option of the account debtor, if the notification notifies the account debtor to:

(A) Divide a payment;

(B) Make less than the full amount of an installment or other periodic payment; or

(C) Pay any part of a payment by more than one (1) method or to more than one (1) person.

(e) **Proof of transfer of control.** Subject to subsection (h), if requested by the account debtor, the person giving the notification under subsection (b) seasonably shall furnish reasonable proof, using the method in the agreement referred to in subsection (d)(1), that control of the controllable electronic record has been transferred. Unless the person complies with the request, the account debtor may discharge its obligation by paying a person that formerly had control, even if the account debtor has received a

notification under subsection (b).

(f) **What constitutes reasonable proof.** A person furnishes reasonable proof under subsection (e) that control has been transferred if the person demonstrates, using the method in the agreement referred to in subsection (d)(1), that the transferee has the power to:

(1) Avail itself of substantially all the benefit from the controllable electronic record;

(2) Prevent others from availing themselves of substantially all the benefit from the controllable electronic record; and

(3) Transfer the powers specified in paragraphs (1) and (2) to another person.

(g) **Rights not waivable.** Subject to subsection (h), an account debtor may not waive or vary its rights under subsection (d)(1) and subsection (e) or its option under subsection (d)(3).

(h) **Rule for individual under other law.** This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

#### **47-6-107. Governing law.**

(a) **Governing law: general rule.** Except as provided in subsection (b), the local law of a controllable electronic record's jurisdiction governs a matter covered by this chapter.

(b) **Governing law: § 47-6-106.** For a controllable electronic record that evidences a controllable account or controllable payment intangible, the local law of the controllable electronic record's jurisdiction governs a matter covered by § 47-6-106

unless an effective agreement determines that the local law of another jurisdiction governs.

(c) **Controllable electronic record's jurisdiction.** The following rules determine a controllable electronic record's jurisdiction under this section:

(1) If the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this chapter or chapters 1-9 of this title, that jurisdiction is the controllable electronic record's jurisdiction.

(2) If paragraph (1) does not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this chapter or chapters 1-9 of this title, that jurisdiction is the controllable electronic record's jurisdiction.

(3) If paragraphs (1) and (2) do not apply and the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that the controllable electronic record is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

(4) If paragraphs (1), (2), and (3) do not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that the controllable electronic record or the system is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

(5) If paragraphs (1) through (4) do not apply, the controllable electronic record's jurisdiction is the District of Columbia.

(d) **Applicability of Article 12.** If subsection (c)(5) applies and Article 12 is not in effect in the District of Columbia without material modification, the governing law for a matter covered by this chapter is the law of the District of Columbia as though Article 12 were in effect in the District of Columbia without material modification. In this subsection (d), "Article 12" means Article 12 of Uniform Commercial Code Amendments (2022).

(e) **Relation of matter or transaction to controllable electronic record's jurisdiction not necessary.** To the extent subsections (a) and (b) provide that the local law of the controllable electronic record's jurisdiction governs a matter covered by this chapter, that law governs even if the matter or a transaction to which the matter relates does not bear any relation to the controllable electronic record's jurisdiction.

(f) **Rights of purchasers determined at time of purchase.** The rights acquired under § 47-6-104 by a purchaser or qualifying purchaser are governed by the law applicable under this section at the time of purchase.

SECTION 120. Tennessee Code Annotated, Title 47, is amended by adding the following as a new **Chapter 1A: Transitional Provision for Uniform Commerce Code Amendments (2022)**:

**Part 1. General Provisions and Definitions.**

**47-1A-101. Short title.**

This chapter is known and may be cited as "Transitional Provisions for Uniform Commercial Code Amendments (2022)."

**47-1A-102. Chapter definitions.**

(a) **Chapter 1A definitions.** In this chapter:

(1) "Adjustment date" means July 1, 2025, or the date that is one (1) year

after the effective date of this act, whichever is later.

(2) "Article 12" means chapter 6 of this title.

(3) "Article 12 property" means a controllable account, controllable electronic record, or controllable payment intangible.

(b) **Definitions in other chapters.** The following definitions in other chapters apply to this chapter:

"Controllable account." § 47-9-102

"Controllable electronic record." § 47-6-102

"Controllable payment intangible." § 47-9-102

"Electronic money." § 47-9-102

"Financing statement." § 47-9-102

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

## **Part 2. General Transitional Provision.**

### **47-1A-201. Saving clause.**

Except as provided in part 3, a transaction validly entered into before the effective date of this act and the rights, duties, and interests flowing from the transaction remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by law other than chapters 1-9 of this title or, if applicable, chapters 1-9 of this title, as though this chapter had not taken effect.

## **Part 3. Transitional Provisions for Chapters 6 and 9.**

### **47-1A-301. Saving clause.**

(a) **Pre-effective-date transaction, lien, or interest.** Except as provided in this part, chapters 6 and 9 apply to a transaction, lien, or other interest in property, even if

the transaction, lien, or interest was entered into, created, or acquired before the effective date of this act.

(b) **Continuing validity.** Except as provided in subsection (c) and § 47-1A-302 - 47-1A-306:

(1) A transaction, lien, or interest in property that was validly entered into, created, or transferred before the effective date of this act and was not governed by chapters 1-9 of this title, but would be subject to chapter 6 or 9 if it had been entered into, created, or transferred on or after the effective date of this act, including the rights, duties, and interests flowing from the transaction, lien, or interest, remains valid on and after the effective date of this act; and

(2) The transaction, lien, or interest may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that would apply if this chapter had not taken effect.

(c) **Pre-effective-date proceeding.** This chapter does not affect an action, case, or proceeding commenced before the effective date of this act.

**47-1A-302. Security interest perfected before effective date.**

(a) **Continuing perfection: perfection requirements satisfied.** A security interest that is enforceable and perfected immediately before the effective date of this act is a perfected security interest under this chapter if, on the effective date of this act, the requirements for enforceability and perfection under this chapter are satisfied without further action.

(b) **Continuing perfection: enforceability or perfection requirements not satisfied.** If a security interest is enforceable and perfected immediately before the effective date of this act, but the requirements for enforceability or perfection under this chapter are not satisfied on the effective date of this act, the security interest:

(1) Is a perfected security interest until the earlier of the time perfection would have ceased under the law in effect immediately before the effective date of this act or the adjustment date;

(2) Remains enforceable thereafter only if the security interest satisfies the requirements for enforceability under § 47-9-203 before the adjustment date; and

(3) Remains perfected thereafter only if the requirements for perfection under this chapter are satisfied before the time specified in paragraph (1).

**47-1A-303. Security interest unperfected before effective date.**

A security interest that is enforceable immediately before the effective date of this act but is unperfected at that time:

(1) Remains an enforceable security interest until the adjustment date;

(2) Remains enforceable thereafter if the security interest becomes enforceable under § 47-9-203 on the effective date of this act or before the adjustment date; and

(3) Becomes perfected:

(A) Without further action, on the effective date of this act if the requirements for perfection under this chapter are satisfied before or at that time; or

(B) When the requirements for perfection are satisfied if the requirements are satisfied after that time.

**47-1A-304. Effectiveness of actions taken before effective date.**

(a) **Pre-effective-date action; attachment and perfection before adjustment date.** If action, other than the filing of a financing statement, is taken before the effective date of this act and the action would have resulted in perfection of the security interest

had the security interest become enforceable before the effective date of this act, the action is effective to perfect a security interest that attaches under this chapter before the adjustment date. An attached security interest becomes unperfected on the adjustment date unless the security interest becomes a perfected security interest under this chapter before the adjustment date.

(b) **Pre-effective-date filing.** The filing of a financing statement before the effective date of this act is effective to perfect a security interest on the effective date of this act to the extent the filing would satisfy the requirements for perfection under this chapter.

(c) **Pre-effective-date enforceability action.** The taking of an action before the effective date of this act is sufficient for the enforceability of a security interest on the effective date of this act if the action would satisfy the requirements for enforceability under this chapter.

#### **47-1A-305. Priority.**

(a) **Determination of priority.** Subject to subsections (b) and (c), this chapter determines the priority of conflicting claims to collateral.

(b) **Established priorities.** Subject to subsection (c), if the priorities of claims to collateral were established before the effective date of this act, chapter 9 as in effect before the effective date of this act determines priority.

(c) **Determination of certain priorities on adjustment date.** On the adjustment date, to the extent the priorities determined by chapter 9 modify the priorities established before the effective date of this act, the priorities of claims to Article 12 property and electronic money established before the effective date of this act cease to apply.

#### **47-1A-306. Priority of claims when priority rules of chapter 9 do not apply.**

(a) **Determination of priority.** Subject to subsections (b) and (c), Article 12 determines the priority of conflicting claims to Article 12 property when the priority rules of chapter 9 do not apply.

(b) **Established priorities.** Subject to subsection (c), when the priority rules of chapter 9 do not apply and the priorities of claims to Article 12 property were established before the effective date of this act, law other than Article 12 determines priority.

(c) **Determination of certain priorities on adjustment date.** When the priority rules of chapter 9 do not apply, to the extent the priorities determined by this chapter modify the priorities established before the effective date of this act, the priorities of claims to Article 12 property established before the effective date of this act cease to apply on the adjustment date.

SECTION 121. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 122. The Tennessee Code Commission is authorized to include comments submitted to the commission from the National Conference of Commissioners on Uniform State Laws concerning the sections affected or created by this act in codifying the provisions of this act as it deems to be appropriate.

SECTION 123. This act takes effect July 1, 2023, the public welfare requiring it.