

1 AN ACT concerning the Uniform Commercial Code.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Uniform Commercial Code is amended by
5 changing the heading of Article 1, Part 1 and Sections 1-101,
6 1-102, 1-103, 1-104, 1-105, 1-106, 1-107, 1-108, and 1-109, the
7 heading of Article 1, Part 2 and Sections 1-201, 1-202, 1-203,
8 1-204, 1-205, 1-206, 1-207, 1-208, and 1-209 and by adding the
9 heading of Article 1, Part 3 and Sections 1-301, 1-302, 1-303,
10 1-304, 1-305, 1-306, 1-307, 1-308, 1-309, and 1-310 as follows:

11 (810 ILCS 5/Art. 1 Pt. 1 heading)

12 PART 1~~7~~

13 GENERAL PROVISIONS ~~SHORT TITLE, CONSTRUCTION, APPLICATION~~
14 ~~AND SUBJECT MATTER OF THE ACT~~

15 (810 ILCS 5/1-101) (from Ch. 26, par. 1-101)

16 Sec. 1-101. Short Titles. ~~Short title.~~

17 (a) This Act may be cited as the Uniform Commercial Code.

18 (b) This Article may be cited as Uniform Commercial Code -
19 General Provisions. ~~This Act shall be known and may be cited as~~
20 ~~Uniform Commercial Code.~~

21 (Source: Laws 1961, p. 2101.)

22 (810 ILCS 5/1-102) (from Ch. 26, par. 1-102)

23 Sec. 1-102. Scope of Article. ~~Purposes, rules of~~
24 ~~construction, variation by agreement.~~ This Article applies to a
25 transaction to the extent that it is governed by another
26 Article of the Uniform Commercial Code.

27 ~~(1) This Act shall be liberally construed and applied to~~
28 ~~promote its underlying purposes and policies.~~

29 ~~(2) Underlying purposes and policies of this Act are~~

30 ~~(a) to simplify, clarify and modernize the law~~

1 ~~governing commercial transactions;~~

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

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

6 ~~(3) The effect of provisions of this Act may be varied by~~
7 ~~agreement, except as otherwise provided in this Act and except~~
8 ~~that the obligations of good faith, diligence, reasonableness~~
9 ~~and care prescribed by this Act may not be disclaimed by~~
10 ~~agreement but the parties may by agreement determine the~~
11 ~~standards by which the performance of such obligations is to be~~
12 ~~measured if such standards are not manifestly unreasonable.~~

13 ~~(4) The presence in certain provisions of this Act of the~~
14 ~~words "unless otherwise agreed" or words of similar import does~~
15 ~~not imply that the effect of other provisions may not be varied~~
16 ~~by agreement under subsection (3).~~

17 ~~(5) In this Act unless the context otherwise requires~~

18 ~~(a) words in the singular number include the plural,~~
19 ~~and in the plural include the singular;~~

20 ~~(b) words of the masculine gender include the feminine~~
21 ~~and the neuter, and when the sense so indicates words of the~~
22 ~~neuter gender may refer to any gender.~~

23 (Source: Laws 1961, p. 2101.)

24 (810 ILCS 5/1-103) (from Ch. 26, par. 1-103)

25 Sec. 1-103. Construction of Uniform Commercial Code to
26 promote its purposes and policies; applicability of
27 supplemental principles of law. Supplementary general
28 principles of law applicable.

29 (a) The Uniform Commercial Code must be liberally construed
30 and applied to promote its underlying purposes and policies,
31 which are:

32 (1) to simplify, clarify, and modernize the law
33 governing commercial transactions;

34 (2) to permit the continued expansion of commercial
35 practices through custom, usage, and agreement of the

1 parties; and

2 (3) to make uniform the law among the various
3 jurisdictions.

4 (b) Unless displaced by the particular provisions of the
5 Uniform Commercial Code, the principles of law and equity,
6 including the law merchant and the law relative to capacity to
7 contract, principal and agent, estoppel, fraud,
8 misrepresentation, duress, coercion, mistake, bankruptcy, and
9 other validating or invalidating cause supplement its
10 provisions.

11 ~~Unless displaced by the particular provisions of this Act,~~
12 ~~the principles of law and equity, including the law merchant~~
13 ~~and the law relative to capacity to contract, principal and~~
14 ~~agent, estoppel, fraud, misrepresentation, duress, coercion,~~
15 ~~mistake, unjust enrichment, bankruptcy, or other validating or~~
16 ~~invalidating cause shall supplement its provisions.~~

17 (Source: P.A. 88-123.)

18 (810 ILCS 5/1-104) (from Ch. 26, par. 1-104)

19 Sec. 1-104. Construction against implied repeal.
20 ~~Construction against implicit repeal.~~ The Uniform Commercial
21 Code being a general Act intended as a unified coverage of its
22 subject matter, no part of it shall be deemed to be impliedly
23 repealed by subsequent legislation if such construction can
24 reasonably be avoided.

25 ~~This Act being a general act intended as a unified coverage~~
26 ~~of its subject matter, no part of it shall be deemed to be~~
27 ~~impliedly repealed by subsequent legislation if such~~
28 ~~construction can reasonably be avoided.~~

29 (Source: Laws 1961, p. 2101.)

30 (810 ILCS 5/1-105) (from Ch. 26, par. 1-105)

31 Sec. 1-105. Severability. If any provision or clause of the
32 Uniform Commercial Code or its application to any person or
33 circumstance is held invalid, the invalidity does not affect
34 other provisions or applications of the Uniform Commercial Code

1 which can be given effect without the invalid provision or
2 application, and to this end the provisions of the Uniform
3 Commercial Code are severable.

4 ~~Territorial application of the Act; parties' power to choose~~
5 ~~applicable law.~~

6 ~~(1) Except as provided in this Section, when a transaction~~
7 ~~bears a reasonable relation to this State and also to another~~
8 ~~state or nation the parties may agree that the law either of~~
9 ~~this State or of the other state or nation shall govern their~~
10 ~~rights and duties. Failing an agreement, this Act applies to~~
11 ~~transactions bearing an appropriate relation to this State.~~

12 ~~(2) Where one of the following provisions of this Act~~
13 ~~specifies the applicable law, that provision governs and a~~
14 ~~contrary agreement is effective only to the extent permitted by~~
15 ~~the law (including the conflict of laws rules) so specified:~~

16 ~~Rights of creditors against sold goods. Section 2-402.~~

17 ~~Applicability of the Article on Leases. Sections 2A-105 and~~
18 ~~2A-106.~~

19 ~~Applicability of the Article on Bank Deposits and~~
20 ~~Collections. Section 4-102.~~

21 ~~Governing law in the Article on Funds Transfers. Section~~
22 ~~4A-507.~~

23 ~~Letters of Credit. Section 5-116.~~

24 ~~Applicability of the Article on Investment Securities.~~
25 ~~Section 8-110.~~

26 ~~Law governing perfection, the effect of perfection or~~
27 ~~nonperfection, and the priority of security interests~~
28 ~~and agricultural liens. Sections 9-301 through 9-307.~~

29 (Source: P.A. 91-893, eff. 7-1-01.)

30 (810 ILCS 5/1-106) (from Ch. 26, par. 1-106)

31 Sec. 1-106. Use of singular and plural; gender. ~~Remedies to~~
32 ~~be liberally administered.~~ In the Uniform Commercial Code,
33 unless the statutory context otherwise requires:

34 (1) words in the singular number include the plural,
35 and those in the plural include the singular; and

1 (2) words of any gender also refer to any other gender.

2 ~~(1) The remedies provided by this Act shall be liberally~~
3 ~~administered to the end that the aggrieved party may be put in~~
4 ~~as good a position as if the other party had fully performed~~
5 ~~but neither consequential or special nor penal damages may be~~
6 ~~had except as specifically provided in this Act or by other~~
7 ~~rule of law.~~

8 ~~(2) Any right or obligation declared by this Act is~~
9 ~~enforceable by action unless the provision declaring it~~
10 ~~specifies a different and limited effect.~~

11 (Source: Laws 1961, 1st SS., p. 7.)

12 (810 ILCS 5/1-107) (from Ch. 26, par. 1-107)

13 Sec. 1-107. Section captions. Waiver or renunciation of
14 ~~claim or right after breach.~~ Section captions are part of the
15 Uniform Commercial Code.

16 ~~Any claim or right arising out of an alleged breach can be~~
17 ~~discharged in whole or in part without consideration by a~~
18 ~~written waiver or renunciation signed and delivered by the~~
19 ~~aggrieved party.~~

20 (Source: Laws 1961, p. 2101.)

21 (810 ILCS 5/1-108) (from Ch. 26, par. 1-108)

22 Sec. 1-108. Relation to Electronic Signatures in Global and
23 National Commerce Act. Severability. This Act modifies,
24 limits, and supersedes the federal Electronic Signatures in
25 Global and National Commerce Act, (15 U.S.C. Section 7001, et.
26 seq.) but does not modify, limit, or supersede Section 101(c)
27 of that Act (15 U.S.C. Section 7001(c)) or authorize electronic
28 delivery of any of the notices described in Section 103(b) of
29 that Act (15 U.S.C. Section 103(b)).

30 ~~If any provision or clause of this Act or application~~
31 ~~thereof to any person or circumstances is held invalid, such~~
32 ~~invalidity shall not affect other provisions or applications of~~
33 ~~the Act which can be given effect without the invalid provision~~
34 ~~or application, and to this end the provisions of this Act are~~

1 ~~declared to be severable.~~

2 (Source: Laws 1961, p. 2101.)

3 (810 ILCS 5/1-109) (from Ch. 26, par. 1-109)

4 Sec. 1-109. (Blank). ~~Section captions. Section captions~~
5 ~~are parts of this Act.~~

6 (Source: Laws 1961, p. 2101.)

7 (810 ILCS 5/Art. 1 Pt. 2 heading)

8 PART 2-

9 GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

10 (810 ILCS 5/1-201) (from Ch. 26, par. 1-201)

11 Sec. 1-201. General Definitions.

12 (a) Unless the context otherwise requires, words or phrases
13 defined in this Section, or in the additional definitions
14 contained in other Articles of the Uniform Commercial Code that
15 apply to particular Articles or parts thereof, have the
16 meanings stated.

17 (b) Subject to definitions contained in other Articles of
18 the Uniform Commercial Code that apply to particular Articles
19 or parts thereof:

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

24 (2) "Aggrieved party" means a party entitled to pursue
25 a remedy.

26 (3) "Agreement", as distinguished from "contract",
27 means the bargain of the parties in fact, as found in their
28 language or inferred from other circumstances, including
29 course of performance, course of dealing, or usage of trade
30 as provided in Section 1-303.

31 (4) "Bank" means a person engaged in the business of
32 banking and includes a savings bank, savings and loan
33 association, credit union, and trust company.

1 (5) "Bearer" means a person in possession of a
2 negotiable instrument, document of title, or certificated
3 security that is payable to bearer or indorsed in blank.

4 (6) "Bill of lading" means a document evidencing the
5 receipt of goods for shipment issued by a person engaged in
6 the business of transporting or forwarding goods.

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

9 (8) "Burden of establishing" a fact means the burden of
10 persuading the trier of fact that the existence of the fact
11 is more probable than its nonexistence.

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

33 (10) "Conspicuous", with reference to a term, means so
34 written, displayed, or presented that a reasonable person
35 against which it is to operate ought to have noticed it.
36 Whether a term is "conspicuous" or not is a decision for

1 the court. Conspicuous terms include the following:

2 (A) a heading in capitals equal to or greater in
3 size than the surrounding text, or in contrasting type,
4 font, or color to the surrounding text of the same or
5 lesser size; and

6 (B) language in the body of a record or display in
7 larger type than the surrounding text, or in
8 contrasting type, font, or color to the surrounding
9 text of the same size, or set off from surrounding text
10 of the same size by symbols or other marks that call
11 attention to the language.

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

15 (12) "Contract", as distinguished from "agreement",
16 means the total legal obligation that results from the
17 parties' agreement as determined by the Uniform Commercial
18 Code as supplemented by any other applicable laws.

19 (13) "Creditor" includes a general creditor, a secured
20 creditor, a lien creditor, and any representative of
21 creditors, including an assignee for the benefit of
22 creditors, a trustee in bankruptcy, a receiver in equity,
23 and an executor or administrator of an insolvent debtor's
24 or assignor's estate.

25 (14) "Defendant" includes a person in the position of
26 defendant in a counterclaim, cross-claim, or third-party
27 claim.

28 (15) "Delivery", with respect to an instrument,
29 document of title, or chattel paper, means voluntary
30 transfer of possession.

31 (16) "Document of title" includes bill of lading, dock
32 warrant, dock receipt, warehouse receipt or order for the
33 delivery of goods, and also any other document which in the
34 regular course of business or financing is treated as
35 adequately evidencing that the person in possession of it
36 is entitled to receive, hold, and dispose of the document

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

6 (17) "Fault" means a default, breach, or wrongful act
7 or omission.

8 (18) "Fungible goods" means:

9 (A) goods of which any unit, by nature or usage of
10 trade, is the equivalent of any other like unit; or

11 (B) goods that by agreement are treated as
12 equivalent.

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

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

17 (21) "Holder" means:

18 (A) the person in possession of a negotiable
19 instrument that is payable either to bearer or to an
20 identified person that is the person in possession; or

21 (B) the person in possession of a document of title
22 if the goods are deliverable either to bearer or to the
23 order of the person in possession.

24 (22) "Insolvency proceeding" includes an assignment
25 for the benefit of creditors or other proceeding intended
26 to liquidate or rehabilitate the estate of the person
27 involved.

28 (23) "Insolvent" means:

29 (A) having generally ceased to pay debts in the
30 ordinary course of business other than as a result of
31 bona fide dispute;

32 (B) being unable to pay debts as they become due;
33 or

34 (C) being insolvent within the meaning of federal
35 bankruptcy law.

36 (24) "Money" means a medium of exchange currently

1 authorized or adopted by a domestic or foreign government.
2 The term includes a monetary unit of account established by
3 an intergovernmental organization or by agreement between
4 two or more countries.

5 (25) "Organization" means a person other than an
6 individual.

7 (26) "Party", as distinguished from "third party",
8 means a person that has engaged in a transaction or made an
9 agreement subject to the Uniform Commercial Code.

10 (27) "Person" means an individual, corporation,
11 business trust, estate, trust, partnership, limited
12 liability company, association, joint venture, government,
13 governmental subdivision, agency, or instrumentality,
14 public corporation, or any other legal or commercial
15 entity.

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

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

29 (30) "Purchaser" means a person that takes by purchase.

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

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

36 (33) "Representative" means a person empowered to act

1 for another, including an agent, an officer of a
2 corporation or association, and a trustee, executor, or
3 administrator of an estate.

4 (34) "Right" includes remedy.

5 (35) "Security interest" means an interest in personal
6 property or fixtures which secures payment or performance
7 of an obligation. "Security interest" includes any
8 interest of a consignor and a buyer of accounts, chattel
9 paper, a payment intangible, or a promissory note in a
10 transaction that is subject to Article 9. "Security
11 interest" does not include the special property interest of
12 a buyer of goods on identification of those goods to a
13 contract for sale under Section 2-401, but a buyer may also
14 acquire a "security interest" by complying with Article 9.
15 Except as otherwise provided in Section 2-505, the right of
16 a seller or lessor of goods under Article 2 or 2A to retain
17 or acquire possession of the goods is not a "security
18 interest", but a seller or lessor may also acquire a
19 "security interest" by complying with Article 9. The
20 retention or reservation of title by a seller of goods
21 notwithstanding shipment or delivery to the buyer under
22 Section 2-401 is limited in effect to a reservation of a
23 "security interest". Whether a transaction in the form of a
24 lease creates a "security interest" is determined pursuant
25 to Section 1-203.

26 (36) "Send" in connection with a writing, record, or
27 notice means:

28 (A) to deposit in the mail or deliver for
29 transmission by any other usual means of communication
30 with postage or cost of transmission provided for and
31 properly addressed and, in the case of an instrument,
32 to an address specified thereon or otherwise agreed, or
33 if there be none to any address reasonable under the
34 circumstances; or

35 (B) in any other way to cause to be received any
36 record or notice within the time it would have arrived

1 if properly sent.

2 (37) "Signed" includes using any symbol executed or
3 adopted with present intention to adopt or accept a
4 writing.

5 (38) "State" means a State of the United States, the
6 District of Columbia, Puerto Rico, the United States Virgin
7 Islands, or any territory or insular possession subject to
8 the jurisdiction of the United States.

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

11 (40) "Term" means a portion of an agreement that
12 relates to a particular matter.

13 (41) "Unauthorized signature" means a signature made
14 without actual, implied, or apparent authority. The term
15 includes a forgery.

16 (42) "Warehouse receipt" means a receipt issued by a
17 person engaged in the business of storing goods for hire.

18 (43) "Writing" includes printing, typewriting, or any
19 other intentional reduction to tangible form. "Written"
20 has a corresponding meaning.

21 ~~Subject to additional definitions contained in the subsequent~~
22 ~~Articles of this Act which are applicable to specific Articles~~
23 ~~or Parts thereof, and unless the context otherwise requires, in~~
24 ~~this Act:~~

25 ~~(1) "Action" in the sense of a judicial proceeding includes~~
26 ~~recoupment, counterclaim, set off, suit in equity and any other~~
27 ~~proceedings in which rights are determined.~~

28 ~~(2) "Aggrieved party" means a party entitled to resort to a~~
29 ~~remedy.~~

30 ~~(3) "Agreement" means the bargain of the parties in fact as~~
31 ~~found in their language or by implication from other~~
32 ~~circumstances including course of dealing or usage of trade or~~
33 ~~course of performance as provided in this Act (Sections 1-205,~~
34 ~~2-208, and 2A-207). Whether an agreement has legal consequences~~
35 ~~is determined by the provisions of this Act, if applicable,~~
36 ~~otherwise by the law of contracts (Section 1-103). (Compare~~

1 ~~"Contract".)~~

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

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

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

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

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

19 ~~(9) "Buyer in ordinary course of business" means a person~~
20 ~~that buys goods in good faith, without knowledge that the sale~~
21 ~~violates the rights of another person in the goods, and in the~~
22 ~~ordinary course from a person, other than a pawnbroker, in the~~
23 ~~business of selling goods of that kind. A person buys goods in~~
24 ~~the ordinary course if the sale to the person comports with the~~
25 ~~usual or customary practices in the kind of business in which~~
26 ~~the seller is engaged or with the seller's own usual or~~
27 ~~customary practices. A person that sells oil, gas, or other~~
28 ~~minerals at the wellhead or minehead is a person in the~~
29 ~~business of selling goods of that kind. A buyer in ordinary~~
30 ~~course of business may buy for cash, by exchange of other~~
31 ~~property, or on secured or unsecured credit, and may acquire~~
32 ~~goods or documents of title under a pre-existing contract for~~
33 ~~sale. Only a buyer that takes possession of the goods or has a~~
34 ~~right to recover the goods from the seller under Article 2 may~~
35 ~~be a buyer in ordinary course of business. A person that~~
36 ~~acquires goods in a transfer in bulk or as security for or in~~

1 ~~total or partial satisfaction of a money debt is not a buyer in~~
2 ~~ordinary course of business.~~

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

11 ~~(11) "Contract" means the total legal obligation which~~
12 ~~results from the parties' agreement as affected by this Act and~~
13 ~~any other applicable rules of law. (Compare "Agreement".)~~

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

19 ~~(13) "Defendant" includes a person in the position of~~
20 ~~defendant in a cross-action or counterclaim.~~

21 ~~(14) "Delivery" with respect to instruments, documents of~~
22 ~~title, chattel paper or certificated securities means~~
23 ~~voluntary transfer of possession.~~

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

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

35 ~~(17) "Fungible" with respect to goods or securities means~~
36 ~~goods or securities of which any unit is, by nature or usage of~~

1 ~~trade, the equivalent of any other like unit. Goods which are~~
2 ~~not fungible shall be deemed fungible for the purposes of this~~
3 ~~Act to the extent that under a particular agreement or document~~
4 ~~unlike units are treated as equivalents.~~

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

6 ~~(19) "Good faith" means honesty in fact in the conduct or~~
7 ~~transaction concerned.~~

8 ~~(20) "Holder" with respect to a negotiable instrument means~~
9 ~~the person in possession if the instrument is payable to bearer~~
10 ~~or, in the case of an instrument payable to an identified~~
11 ~~person, if the identified person is in possession. "Holder"~~
12 ~~with respect to a document of title means the person in~~
13 ~~possession if the goods are deliverable to bearer or to the~~
14 ~~order of the person in possession.~~

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

18 ~~(22) "Insolvency proceedings" includes any assignment for~~
19 ~~the benefit of creditors or other proceedings intended to~~
20 ~~liquidate or rehabilitate the estate of the person involved.~~

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

25 ~~(24) "Money" means a medium of exchange authorized or~~
26 ~~adopted by a domestic or foreign government and includes a~~
27 ~~monetary unit of account established by an intergovernmental~~
28 ~~organization or by agreement between 2 or more nations.~~

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

30 ~~(a) he has actual knowledge of it; or~~

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

32 ~~(c) from all the facts and circumstances known to him~~

33 ~~at the time in question he has reason to know that it~~
34 ~~exists. A person "knows" or has "knowledge" of a fact when~~
35 ~~he has actual knowledge of it. "Discover" or "learn" or a~~
36 ~~word or phrase of similar import refers to knowledge rather~~

1 ~~than to reason to know. The time and circumstances under~~
2 ~~which a notice or notification may cease to be effective~~
3 ~~are not determined by this Act.~~

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

9 ~~(a) it comes to his attention; or~~

10 ~~(b) it is duly delivered at the place of business~~
11 ~~through which the contract was made or at any other place~~
12 ~~held out by him as the place for receipt of such~~
13 ~~communications.~~

14 ~~(27) Notice, knowledge or a notice or notification received~~
15 ~~by an organization is effective for a particular transaction~~
16 ~~from the time when it is brought to the attention of the~~
17 ~~individual conducting that transaction, and in any event from~~
18 ~~the time when it would have been brought to his attention if~~
19 ~~the organization had exercised due diligence. An organization~~
20 ~~exercises due diligence if it maintains reasonable routines for~~
21 ~~communicating significant information to the person conducting~~
22 ~~the transaction and there is reasonable compliance with the~~
23 ~~routines. Due diligence does not require an individual acting~~
24 ~~for the organization to communicate information unless such~~
25 ~~communication is part of his regular duties or unless he has~~
26 ~~reason to know of the transaction and that the transaction~~
27 ~~would be materially affected by the information.~~

28 ~~(28) "Organization" includes a corporation, government or~~
29 ~~governmental subdivision or agency, business trust, estate,~~
30 ~~trust, partnership or association, two or more persons having a~~
31 ~~joint or common interest, or any other legal or commercial~~
32 ~~entity.~~

33 ~~(29) "Party", as distinct from "third party", means a~~
34 ~~person who has engaged in a transaction or made an agreement~~
35 ~~within this Act.~~

36 ~~(30) "Person" includes an individual or an organization~~

1 ~~(see Section 1-102).~~

2 ~~(31) "Presumption" or "presumed" means that the trier of~~
3 ~~fact must find the existence of the fact presumed unless and~~
4 ~~until evidence is introduced which would support a finding of~~
5 ~~its non-existence.~~

6 ~~(32) "Purchase" includes taking by sale, discount,~~
7 ~~negotiation, mortgage, pledge, lien, security interest, issue~~
8 ~~or reissue, gift or any other voluntary transaction creating an~~
9 ~~interest in property.~~

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

11 ~~(34) "Remedy" means any remedial right to which an~~
12 ~~aggrieved party is entitled with or without resort to a~~
13 ~~tribunal.~~

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

18 ~~(36) "Rights" includes remedies.~~

19 ~~(37) "Security interest" means an interest in personal~~
20 ~~property or fixtures which secures payment or performance of an~~
21 ~~obligation. The term also includes any interest of a consignor~~
22 ~~and a buyer of accounts, chattel paper, a payment intangible,~~
23 ~~or a promissory note in a transaction that is subject to~~
24 ~~Article 9. The special property interest of a buyer of goods on~~
25 ~~identification of those goods to a contract for sale under~~
26 ~~Section 2-401 is not a "security interest", but a buyer may~~
27 ~~also acquire a "security interest", by complying with Article~~
28 ~~9. Except as otherwise provided in Section 2-505, the right of~~
29 ~~a seller or lessor of goods under Article 2 or 2A to retain or~~
30 ~~acquire possession of the goods is not a "security interest",~~
31 ~~but a seller or lessor may also acquire a "security interest"~~
32 ~~by complying with Article 9. The retention or reservation of~~
33 ~~title by a seller of goods notwithstanding shipment or delivery~~
34 ~~to the buyer (Section 2-401) is limited in effect to a~~
35 ~~reservation of a "security interest".~~

36 ~~Whether a transaction creates a lease or security interest~~

1 ~~is determined by the facts of each case; however, a transaction~~
2 ~~creates a security interest if the consideration the lessee is~~
3 ~~to pay the lessor for the right to possession and use of the~~
4 ~~goods is an obligation for the term of the lease not subject to~~
5 ~~termination by the lessee; and~~

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

8 ~~(b) the lessee is bound to renew the lease for the~~
9 ~~remaining economic life of the goods or is bound to become~~
10 ~~the owner of the goods;~~

11 ~~(c) the lessee has an option to renew the lease for the~~
12 ~~remaining economic life of the goods for no additional~~
13 ~~consideration or nominal additional consideration upon~~
14 ~~compliance with the lease agreement; or~~

15 ~~(d) the lessee has an option to become the owner of the~~
16 ~~goods for no additional consideration or nominal~~
17 ~~additional consideration upon compliance with the lease~~
18 ~~agreement.~~

19 ~~A transaction does not create a security interest merely~~
20 ~~because it provides that:~~

21 ~~(a) the present value of the consideration the lessee~~
22 ~~is obligated to pay the lessor for the right to possession~~
23 ~~and use of the goods is substantially equal to or is~~
24 ~~greater than the fair market value of the goods at the time~~
25 ~~the lease is entered into;~~

26 ~~(b) the lessee assumes risk of loss of the goods, or~~
27 ~~agrees to pay taxes, insurance, filing, recording, or~~
28 ~~registration fees, or service or maintenance costs with~~
29 ~~respect to the goods;~~

30 ~~(c) the lessee has an option to renew the lease or to~~
31 ~~become the owner of the goods;~~

32 ~~(d) the lessee has an option to renew the lease for a~~
33 ~~fixed rent that is equal to or greater than the reasonably~~
34 ~~predictable fair market rent for the use of the goods for~~
35 ~~the term of the renewal at the time the option is to be~~
36 ~~performed; or~~

1 ~~(e) the lessee has an option to become the owner of the~~
2 ~~goods for a fixed price that is equal to or greater than~~
3 ~~the reasonably predictable fair market value of the goods~~
4 ~~at the time the option is to be performed.~~

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

6 ~~(x) Additional consideration is not nominal if (i) when~~
7 ~~the option to renew the lease is granted to the lessee the~~
8 ~~rent is stated to be the fair market rent for the use of~~
9 ~~the goods for the term of the renewal determined at the~~
10 ~~time the option is to be performed, or (ii) when the option~~
11 ~~to become the owner of the goods is granted to the lessee~~
12 ~~the price is stated to be the fair market value of the~~
13 ~~goods determined at the time the option is to be performed.~~
14 ~~Additional consideration is nominal if it is less than the~~
15 ~~lessee's reasonably predictable cost of performing under~~
16 ~~the lease agreement if the option is not exercised;~~

17 ~~(y) "Reasonably predictable" and "remaining economic~~
18 ~~life of the goods" are to be determined with reference to~~
19 ~~the facts and circumstances at the time the transaction is~~
20 ~~entered into; and~~

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

30 ~~(38) "Send" in connection with any writing or notice means~~
31 ~~to deposit in the mail or deliver for transmission by any other~~
32 ~~usual means of communication with postage or cost of~~
33 ~~transmission provided for and properly addressed and in the~~
34 ~~case of an instrument to an address specified thereon or~~
35 ~~otherwise agreed, or if there be none to any address reasonable~~
36 ~~under the circumstances. The receipt of any writing or notice~~

1 ~~within the time at which it would have arrived if properly sent~~
2 ~~has the effect of a proper sending.~~

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

5 ~~(40) "Surety" includes guarantor.~~

6 ~~(41) "Telegram" includes a message transmitted by radio,~~
7 ~~teletype, cable, any mechanical method of transmission, or the~~
8 ~~like.~~

9 ~~(42) "Term" means that portion of an agreement which~~
10 ~~relates to a particular matter.~~

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

13 ~~(44) "Value". Except as otherwise provided with respect to~~
14 ~~negotiable instruments and bank collections (Sections 3-303,~~
15 ~~4-210, and 4-211), a person gives "value" for rights if he~~
16 ~~acquires them:~~

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

22 ~~(b) as security for or in total or partial satisfaction~~
23 ~~of a pre-existing claim; or~~

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

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

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

30 ~~(46) "Written" or "writing" includes printing, typewriting~~
31 ~~or any other intentional reduction to tangible form.~~

32 (Source: P.A. 91-893, eff. 7-1-01.)

33 (810 ILCS 5/1-202) (from Ch. 26, par. 1-202)

34 Sec. 1-202. Notice; knowledge. ~~Prima facie evidence by~~
35 ~~third party documents.~~

1 (a) Subject to subsection (f), a person has "notice" of a
2 fact if the person:

3 (1) has actual knowledge of it;

4 (2) has received a notice or notification of it; or

5 (3) from all the facts and circumstances known to the
6 person at the time in question, has reason to know that it
7 exists.

8 (b) "Knowledge" means actual knowledge. "Knows" has a
9 corresponding meaning.

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

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

16 (e) Subject to subsection (f), a person "receives" a notice
17 or notification when:

18 (1) it comes to that person's attention; or

19 (2) it is duly delivered in a form reasonable under the
20 circumstances at the place of business through which the
21 contract was made or at another location held out by that
22 person as the place for receipt of such communications.

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

1 ~~A document in due form purporting to be a bill of lading,~~
2 ~~policy or certificate of insurance, official weigher's or~~
3 ~~inspector's certificate, consular invoice, or any other~~
4 ~~document authorized or required by the contract to be issued by~~
5 ~~a third party shall be prima facie evidence of its own~~
6 ~~authenticity and genuineness and of the facts stated in the~~
7 ~~document by the third party.~~

8 (Source: Laws 1961, p. 2101.)

9 (810 ILCS 5/1-203) (from Ch. 26, par. 1-203)

10 Sec. 1-203. Lease distinguished from security interest.
11 ~~Obligation of good faith.~~

12 (a) Whether a transaction in the form of a lease creates a
13 lease or security interest is determined by the facts of each
14 case.

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

20 (1) the original term of the lease is equal to or
21 greater than the remaining economic life of the goods;

22 (2) the lessee is bound to renew the lease for the
23 remaining economic life of the goods or is bound to become
24 the owner of the goods;

25 (3) the lessee has an option to renew the lease for the
26 remaining economic life of the goods for no additional
27 consideration or for nominal additional consideration upon
28 compliance with the lease agreement; or

29 (4) the lessee has an option to become the owner of the
30 goods for no additional consideration or for nominal
31 additional consideration upon compliance with the lease
32 agreement.

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

35 (1) the present value of the consideration the lessee

1 is obligated to pay the lessor for the right to possession
2 and use of the goods is substantially equal to or is
3 greater than the fair market value of the goods at the time
4 the lease is entered into;

5 (2) the lessee assumes risk of loss of the goods;

6 (3) the lessee agrees to pay, with respect to the
7 goods, taxes, insurance, filing, recording, or
8 registration fees, or service or maintenance costs;

9 (4) the lessee has an option to renew the lease or to
10 become the owner of the goods;

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

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

20 (d) Additional consideration is nominal if it is less than
21 the lessee's reasonably predictable cost of performing under
22 the lease agreement if the option is not exercised. Additional
23 consideration is not nominal if:

24 (1) when the option to renew the lease is granted to
25 the lessee, the rent is stated to be the fair market rent
26 for the use of the goods for the term of the renewal
27 determined at the time the option is to be performed; or

28 (2) when the option to become the owner of the goods is
29 granted to the lessee, the price is stated to be the fair
30 market value of the goods determined at the time the option
31 is to be performed.

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

1 ~~Every contract or duty within this Act imposes an~~
2 ~~obligation of good faith in its performance or enforcement.~~

3 (Source: Laws 1961, p. 2101.)

4 (810 ILCS 5/1-204) (from Ch. 26, par. 1-204)

5 Sec. 1-204. Value. Time; reasonable time; "seasonably".
6 Except as otherwise provided in Articles 3, 4, 5, and 6, a
7 person gives value for rights if the person acquires them:

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

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

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

16 (4) in return for any consideration sufficient to
17 support a simple contract.

18 ~~(1) Whenever this Act requires any action to be taken~~
19 ~~within a reasonable time, any time which is not manifestly~~
20 ~~unreasonable may be fixed by agreement.~~

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

23 ~~(3) An action is taken "seasonably" when it is taken at or~~
24 ~~within the time agreed or if no time is agreed at or within~~
25 ~~reasonable time.~~

26 (Source: Laws 1961, p. 2101.)

27 (810 ILCS 5/1-205) (from Ch. 26, par. 1-205)

28 Sec. 1-205. Reasonable time; seasonableness. Course of
29 dealing and usage of trade.

30 (a) Whether a time for taking an action required by the
31 Uniform Commercial Code is reasonable depends on the nature,
32 purpose, and circumstances of the action.

33 (b) An action is taken seasonably if it is taken at or
34 within the time agreed or, if no time is agreed, at or within a

1 reasonable time.

2 ~~(1) A course of dealing is a sequence of previous conduct~~
3 ~~between the parties to a particular transaction which is fairly~~
4 ~~to be regarded as establishing a common basis of understanding~~
5 ~~for interpreting their expressions and other conduct.~~

6 ~~(2) A usage of trade is any practice or method of dealing~~
7 ~~having such regularity of observance in a place, vocation or~~
8 ~~trade as to justify an expectation that it will be observed~~
9 ~~with respect to the transaction in question. The existence and~~
10 ~~scope of such a usage are to be proved as facts. If it is~~
11 ~~established that such a usage is embodied in a written trade~~
12 ~~code or similar writing the interpretation of the writing is~~
13 ~~for the court.~~

14 ~~(3) A course of dealing between parties and any usage of~~
15 ~~trade in the vocation or trade in which they are engaged or of~~
16 ~~which they are or should be aware give particular meaning to~~
17 ~~and supplement or qualify terms of an agreement.~~

18 ~~(4) The express terms of an agreement and an applicable~~
19 ~~course of dealing or usage of trade shall be construed wherever~~
20 ~~reasonable as consistent with each other, but when such~~
21 ~~construction is unreasonable express terms control both course~~
22 ~~of dealing and usage of trade and course of dealing controls~~
23 ~~usage of trade.~~

24 ~~(5) An applicable usage of trade in the place where any~~
25 ~~part of performance is to occur shall be used in interpreting~~
26 ~~the agreement as to that part of the performance.~~

27 ~~(6) Evidence of a relevant usage of trade offered by one~~
28 ~~party is not admissible unless and until he has given the other~~
29 ~~party such notice as the court finds sufficient to prevent~~
30 ~~unfair surprise to the latter.~~

31 (Source: Laws 1961, p. 2101.)

32 (810 ILCS 5/1-206) (from Ch. 26, par. 1-206)

33 Sec. 1-206. Presumptions. ~~Statute of frauds for kinds of~~
34 ~~personal property not otherwise covered.~~ Whenever the Uniform
35 Commercial Code creates a "presumption" with respect to a fact,

1 or provides that a fact is "presumed", the trier of fact must
2 find the existence of the fact unless and until evidence is
3 introduced that supports a finding of its nonexistence.

4 ~~(1) Except in the cases described in subsection (2) of this~~
5 ~~Section a contract for the sale of personal property is not~~
6 ~~enforceable by way of action or defense beyond \$5,000 in amount~~
7 ~~or value of remedy unless there is some writing which indicates~~
8 ~~that a contract for sale has been made between the parties at a~~
9 ~~defined or stated price, reasonably identifies the subject~~
10 ~~matter, and is signed by the party against whom enforcement is~~
11 ~~sought or by his authorized agent.~~

12 ~~(2) Subsection (1) of this Section does not apply to~~
13 ~~contracts for the sale of goods (Section 2-201) nor of~~
14 ~~securities (Section 8-113) nor to security agreements (Section~~
15 ~~9-203).~~

16 (Source: P.A. 89-364, eff. 1-1-96.)

17 (810 ILCS 5/1-207) (from Ch. 26, par. 1-207)

18 Sec. 1-207. (Blank). ~~Performance or acceptance under~~
19 ~~reservation of rights.~~

20 ~~(1) A party who, with explicit reservation of rights,~~
21 ~~performs or promises performance or assents to performance in a~~
22 ~~manner demanded or offered by the other party does not thereby~~
23 ~~prejudice the rights reserved. Such words as "without~~
24 ~~prejudice", "under protest" or the like are sufficient.~~

25 ~~(2) Subsection (1) does not apply to an accord and~~
26 ~~satisfaction.~~

27 (Source: P.A. 87-582.)

28 (810 ILCS 5/1-208) (from Ch. 26, par. 1-208)

29 Sec. 1-208. (Blank). ~~Option to Accelerate at Will.~~

30 ~~A term providing that one party or his successor in~~
31 ~~interest may accelerate payment or performance or require~~
32 ~~collateral or additional collateral "at will" or "when he deems~~
33 ~~himself insecure" or in words of similar import shall be~~
34 ~~construed to mean that he shall have power to do so only if he~~

1 ~~in good faith believes that the prospect of payment or~~
2 ~~performance is impaired. The burden of establishing lack of~~
3 ~~good faith is on the party against whom the power has been~~
4 ~~exercised.~~

5 (Source: Laws 1961, 1st SS., p. 7.)

6 (810 ILCS 5/1-209) (from Ch. 26, par. 1-209)

7 Sec. 1-209. (Blank). ~~Subordinated Obligations.~~

8 ~~An obligation may be issued as subordinated to payment of~~
9 ~~another obligation of the person obligated, or a creditor may~~
10 ~~subordinate his right to payment of an obligation by agreement~~
11 ~~with either the person obligated or another creditor of the~~
12 ~~person obligated. Such a subordination does not create a~~
13 ~~security interest as against either the common debtor or a~~
14 ~~subordinated creditor. This Section shall be construed as~~
15 ~~declaring the law as it existed prior to the enactment of this~~
16 ~~Section and not as modifying it.~~

17 (Source: P.A. 77-2810.)

18 (810 ILCS 5/Art. 1 Pt. 3 heading new)

19 PART 3

20 TERRITORIAL APPLICABILITY AND GENERAL RULES

21 (810 ILCS 5/1-301 new)

22 Sec. 1-301. Territorial applicability; parties' power to
23 choose applicable law.

24 (a) Except as otherwise provided in this Section, when a
25 transaction bears a reasonable relation to this State and also
26 to another state or nation the parties may agree that the law
27 either of this State or of such other state or nation shall
28 govern their rights and duties.

29 (b) In the absence of an agreement effective under
30 subsection (a), and except as provided in subsection (c), the
31 Uniform Commercial Code applies to transactions bearing an
32 appropriate relation to this State.

33 (c) If one of the following provisions of the Uniform

1 Commercial Code specifies the applicable law, that provision
2 governs and a contrary agreement is effective only to the
3 extent permitted by the law so specified:

4 (1) Section 2-402;

5 (2) Sections 2A-105 and 2A-106;

6 (3) Section 4-102;

7 (4) Section 4A-507;

8 (5) Section 5-116;

9 (6) Section 8-110;

10 (7) Sections 9-301 through 9-307.

11 (810 ILCS 5/1-302 new)

12 Sec. 1-302. Variation by agreement.

13 (a) Except as otherwise provided in subsection (b) or
14 elsewhere in the Uniform Commercial Code, the effect of
15 provisions of the Uniform Commercial Code may be varied by
16 agreement.

17 (b) The obligations of good faith, diligence,
18 reasonableness, and care prescribed by the Uniform Commercial
19 Code may not be disclaimed by agreement. The parties, by
20 agreement, may determine the standards by which the performance
21 of those obligations is to be measured if those standards are
22 not manifestly unreasonable. Whenever the Uniform Commercial
23 Code requires an action to be taken within a reasonable time, a
24 time that is not manifestly unreasonable may be fixed by
25 agreement.

26 (c) The presence in certain provisions of the Uniform
27 Commercial Code of the phrase "unless otherwise agreed", or
28 words of similar import, does not imply that the effect of
29 other provisions may not be varied by agreement under this
30 Section.

31 (810 ILCS 5/1-303 new)

32 Sec. 1-303. Course of performance, course of dealing, and
33 usage of trade.

34 (a) A "course of performance" is a sequence of conduct

1 between the parties to a particular transaction that exists if:

2 (1) the agreement of the parties with respect to the
3 transaction involves repeated occasions for performance by
4 a party; and

5 (2) the other party, with knowledge of the nature of
6 the performance and opportunity for objection to it,
7 accepts the performance or acquiesces in it without
8 objection.

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

14 (c) A "usage of trade" is any practice or method of dealing
15 having such regularity of observance in a place, vocation, or
16 trade as to justify an expectation that it will be observed
17 with respect to the transaction in question. The existence and
18 scope of such a usage must be proved as facts. If it is
19 established that such a usage is embodied in a trade code or
20 similar record, the interpretation of the record is a question
21 of law.

22 (d) A course of performance or course of dealing between
23 the parties or usage of trade in the vocation or trade in which
24 they are engaged or of which they are or should be aware is
25 relevant in ascertaining the meaning of the parties' agreement,
26 may give particular meaning to specific terms of the agreement,
27 and may supplement or qualify the terms of the agreement. A
28 usage of trade applicable in the place in which part of the
29 performance under the agreement is to occur may be so utilized
30 as to that part of the performance.

31 (e) Except as otherwise provided in subsection (f), the
32 express terms of an agreement and any applicable course of
33 performance, course of dealing, or usage of trade must be
34 construed whenever reasonable as consistent with each other. If
35 such a construction is unreasonable:

36 (1) express terms prevail over course of performance,

1 course of dealing, and usage of trade;

2 (2) course of performance prevails over course of
3 dealing and usage of trade; and

4 (3) course of dealing prevails over usage of trade.

5 (f) Subject to Section 2-209, a course of performance is
6 relevant to show a waiver or modification of any term
7 inconsistent with the course of performance.

8 (g) Evidence of a relevant usage of trade offered by one
9 party is not admissible unless that party has given the other
10 party notice that the court finds sufficient to prevent unfair
11 surprise to the other party.

12 (810 ILCS 5/1-304 new)

13 Sec. 1-304. Obligation of good faith. Every contract or
14 duty within the Uniform Commercial Code imposes an obligation
15 of good faith in its performance and enforcement.

16 (810 ILCS 5/1-305 new)

17 Sec. 1-305. Remedies to be liberally administered.

18 (a) The remedies provided by the Uniform Commercial Code
19 must be liberally administered to the end that the aggrieved
20 party may be put in as good a position as if the other party had
21 fully performed but neither consequential or special damages
22 nor penal damages may be had except as specifically provided in
23 the Uniform Commercial Code or by other rule of law.

24 (b) Any right or obligation declared by the Uniform
25 Commercial Code is enforceable by action unless the provision
26 declaring it specifies a different and limited effect.

27 (810 ILCS 5/1-306 new)

28 Sec. 1-306. Waiver or renunciation of claim or right after
29 breach. A claim or right arising out of an alleged breach may
30 be discharged in whole or in part without consideration by
31 agreement of the aggrieved party in an authenticated record.

32 (810 ILCS 5/1-307 new)

1 Sec. 1-307. Prima facie evidence by third-party documents.
2 A document in due form purporting to be a bill of lading,
3 policy or certificate of insurance, official weigher's or
4 inspector's certificate, consular invoice, or any other
5 document authorized or required by the contract to be issued by
6 a third party is prima facie evidence of its own authenticity
7 and genuineness and of the facts stated in the document by the
8 third party.

9 (810 ILCS 5/1-308 new)

10 Sec. 1-308. Performance or acceptance under reservation of
11 rights.

12 (a) A party that with explicit reservation of rights
13 performs or promises performance or assents to performance in a
14 manner demanded or offered by the other party does not thereby
15 prejudice the rights reserved. Such words as "without
16 prejudice", "under protest", or the like are sufficient.

17 (b) Subsection (a) does not apply to an accord and
18 satisfaction.

19 (810 ILCS 5/1-309 new)

20 Sec. 1-309. Option to accelerate at will. A term providing
21 that one party or that party's successor in interest may
22 accelerate payment or performance or require collateral or
23 additional collateral "at will" or when the party "deems itself
24 insecure", or words of similar import, means that the party has
25 power to do so only if that party in good faith believes that
26 the prospect of payment or performance is impaired. The burden
27 of establishing lack of good faith is on the party against
28 which the power has been exercised.

29 (810 ILCS 5/1-310 new)

30 Sec. 1-310. Subordinated obligations. An obligation may be
31 issued as subordinated to performance of another obligation of
32 the person obligated, or a creditor may subordinate its right
33 to performance of an obligation by agreement with either the

1 person obligated or another creditor of the person obligated.
2 Subordination does not create a security interest as against
3 either the common debtor or a subordinated creditor.

4 Section 10. The Uniform Commercial Code is amended by
5 changing Sections 2-202, 2-208, 2A-207, 2A-501, 2A-518,
6 2A-519, 2A-527, 2A-528, 3-103, 4A-105, 4A-106, 4A-204, and
7 5-103 as follows:

8 (810 ILCS 5/2-202) (from Ch. 26, par. 2-202)

9 Sec. 2-202. Final written expression: parol or extrinsic
10 evidence.

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

18 (a) by course of performance, course of dealing, or
19 usage of trade (Section 1-303 ~~1-205~~) ~~or by course of~~
20 ~~performance (Section 2-208);~~ and

21 (b) by evidence of consistent additional terms unless
22 the court finds the writing to have been intended also as a
23 complete and exclusive statement of the terms of the
24 agreement.

25 (Source: Laws 1961, p. 2101.)

26 (810 ILCS 5/2-208) (from Ch. 26, par. 2-208)

27 Sec. 2-208. (Blank). ~~Course of performance or practical~~
28 ~~construction.~~

29 ~~(1) Where the contract for sale involves repeated occasions~~
30 ~~for performance by either party with knowledge of the nature of~~
31 ~~the performance and opportunity for objection to it by the~~
32 ~~other, any course of performance accepted or acquiesced in~~
33 ~~without objection shall be relevant to determine the meaning of~~

1 ~~the agreement.~~

2 ~~(2) The express terms of the agreement and any such course~~
3 ~~of performance, as well as any course of dealing and usage of~~
4 ~~trade, shall be construed whenever reasonable as consistent~~
5 ~~with each other; but when such construction is unreasonable,~~
6 ~~express terms shall control course of performance and course of~~
7 ~~performance shall control both course of dealing and usage of~~
8 ~~trade (Section 1-205).~~

9 ~~(3) Subject to the provisions of the next section on~~
10 ~~modification and waiver, such course of performance shall be~~
11 ~~relevant to show a waiver or modification of any term~~
12 ~~inconsistent with such course of performance.~~

13 (Source: Laws 1961, p. 2101.)

14 (810 ILCS 5/2A-207) (from Ch. 26, par. 2A-207)

15 Sec. 2A-207. (Blank). ~~Course of performance or practical~~
16 ~~construction.~~

17 ~~(1) If a lease contract involves repeated occasions for~~
18 ~~performance by either party with knowledge of the nature of the~~
19 ~~performance and opportunity for objection to it by the other,~~
20 ~~any course of performance accepted or acquiesced in without~~
21 ~~objection is relevant to determine the meaning of the lease~~
22 ~~agreement.~~

23 ~~(2) The express terms of a lease agreement and any course~~
24 ~~of performance, as well as any course of dealing and usage of~~
25 ~~trade, must be construed whenever reasonable as consistent with~~
26 ~~each other; but if that construction is unreasonable, express~~
27 ~~terms control course of performance, course of performance~~
28 ~~controls both course of dealing and usage of trade, and course~~
29 ~~of dealing controls usage of trade.~~

30 ~~(3) Subject to the provisions of Section 2A-208 on~~
31 ~~modification and waiver, course of performance is relevant to~~
32 ~~show a waiver or modification of any term inconsistent with the~~
33 ~~course of performance.~~

34 (Source: P.A. 87-493.)

1 (810 ILCS 5/2A-501) (from Ch. 26, par. 2A-501)

2 Sec. 2A-501. Default; procedure.

3 (1) Whether the lessor or the lessee is in default under a
4 lease contract is determined by the lease agreement and this
5 Article.

6 (2) If the lessor or the lessee is in default under the
7 lease contract, the party seeking enforcement has rights and
8 remedies as provided in this Article and, except as limited by
9 this Article, as provided in the lease agreement.

10 (3) If the lessor or the lessee is in default under the
11 lease contract, the party seeking enforcement may reduce the
12 party's claim to judgment, or otherwise enforce the lease
13 contract by self-help or any available judicial procedure or
14 nonjudicial procedure, including administrative proceeding,
15 arbitration, or the like, in accordance with this Article.

16 (4) Except as otherwise provided in Section 1-305(a)
17 ~~1-106(1)~~ or this Article or the lease agreement, the rights and
18 remedies referred to in subsections (2) and (3) are cumulative.

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

25 (Source: P.A. 87-493.)

26 (810 ILCS 5/2A-518) (from Ch. 26, par. 2A-518)

27 Sec. 2A-518. Cover; substitute goods.

28 (1) After a default by a lessor under the lease contract of
29 the type described in Section 2A-508(1), or, if agreed, after
30 other default by the lessor, the lessee may cover by making any
31 purchase or lease of or contract to purchase or lease goods in
32 substitution for those due from the lessor.

33 (2) Except as otherwise provided with respect to damages
34 liquidated in the lease agreement (Section 2A-504) or otherwise
35 determined pursuant to agreement of the parties (Sections 1-302

1 ~~1-102(3)~~ and 2A-503), if a lessee's cover is by a lease
2 agreement substantially similar to the original lease
3 agreement and the new lease agreement is made in good faith and
4 in a commercially reasonable manner, the lessee may recover
5 from the lessor as damages (i) the present value, as of the
6 date of the commencement of the term of the new lease
7 agreement, of the rent under the new lease agreement applicable
8 to that period of the new lease term which is comparable to the
9 then remaining term of the original lease agreement minus the
10 present value as of the same date of the total rent for the
11 then remaining lease term of the original lease agreement, and
12 (ii) any incidental or consequential damages, less expenses
13 saved in consequence of the lessor's default.

14 (3) If a lessee's cover is by lease agreement that for any
15 reason does not qualify for treatment under subsection (2), or
16 is by purchase or otherwise, the lessee may recover from the
17 lessor as if the lessee had elected not to cover and Section
18 2A-519 governs.

19 (Source: P.A. 87-493.)

20 (810 ILCS 5/2A-519) (from Ch. 26, par. 2A-519)

21 Sec. 2A-519. Lessee's damages for nondelivery,
22 repudiation, default, and breach of warranty in regard to
23 accepted goods.

24 (1) Except as otherwise provided with respect to damages
25 liquidated in the lease agreement (Section 2A-504) or otherwise
26 determined pursuant to agreement of the parties (Sections 1-302
27 ~~1-102(3)~~ and 2A-503), if a lessee elects not to cover or a
28 lessee elects to cover and the cover is by lease agreement that
29 for any reason does not qualify for treatment under Section
30 2A-518(2), or is by purchase or otherwise, the measure of
31 damages for nondelivery or repudiation by the lessor or for
32 rejection or revocation of acceptance by the lessee is the
33 present value, as of the date of the default, of the then
34 market rent minus the present value as of the same date of the
35 original rent, computed for the remaining lease term of the

1 original lease agreement, together with incidental and
2 consequential damages, less expenses saved in consequence of
3 the lessor's default.

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

7 (3) Except as otherwise agreed, if the lessee has accepted
8 goods and given notification (Section 2A-516(3)), the measure
9 of damages for nonconforming tender or delivery or other
10 default by a lessor is the loss resulting in the ordinary
11 course of events from the lessor's default as determined in any
12 manner that is reasonable together with incidental and
13 consequential damages, less expenses saved in consequence of
14 the lessor's default.

15 (4) Except as otherwise agreed, the measure of damages for
16 breach of warranty is the present value at the time and place
17 of acceptance of the difference between the value of the use of
18 the goods accepted and the value if they had been as warranted
19 for the lease term, unless special circumstances show proximate
20 damages of a different amount, together with incidental and
21 consequential damages, less expenses saved in consequence of
22 the lessor's default or breach of warranty.

23 (Source: P.A. 87-493.)

24 (810 ILCS 5/2A-527) (from Ch. 26, par. 2A-527)

25 Sec. 2A-527. Lessor's rights to dispose of goods.

26 (1) After a default by a lessee under the lease contract of
27 the type described in Section 2A-523(1) or 2A-523(3)(a) or
28 after the lessor refuses to deliver or takes possession of
29 goods (Section 2A-525 or 2A-526), or, if agreed, after other
30 default by a lessee, the lessor may dispose of the goods
31 concerned or the undelivered balance thereof by lease, sale, or
32 otherwise.

33 (2) Except as otherwise provided with respect to damages
34 liquidated in the lease agreement (Section 2A-504) or otherwise
35 determined pursuant to agreement of the parties (Sections 1-302

1 ~~1-102(3)~~ and 2A-503), if the disposition is by lease agreement
2 substantially similar to the original lease agreement and the
3 new lease agreement is made in good faith and in a commercially
4 reasonable manner, the lessor may recover from the lessee as
5 damages (i) accrued and unpaid rent as of the date of the
6 commencement of the term of the new lease agreement, (ii) the
7 present value, as of the same date, of the total rent for the
8 then remaining lease term of the original lease agreement minus
9 the present value, as of the same date, of the rent under the
10 new lease agreement applicable to that period of the new lease
11 term which is comparable to the then remaining term of the
12 original lease agreement, and (iii) any incidental damages
13 allowed under Section 2A-530, less expenses saved in
14 consequence of the lessee's default.

15 (3) If the lessor's disposition is by lease agreement that
16 for any reason does not qualify for treatment under subsection
17 (2), or is by sale or otherwise, the lessor may recover from
18 the lessee as if the lessor had elected not to dispose of the
19 goods and Section 2A-528 governs.

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

26 (5) The lessor is not accountable to the lessee for any
27 profit made on any disposition. A lessee who has rightfully
28 rejected or justifiably revoked acceptance shall account to the
29 lessor for any excess over the amount of the lessee's security
30 interest (Section 2A-508(5)).

31 (Source: P.A. 87-493.)

32 (810 ILCS 5/2A-528) (from Ch. 26, par. 2A-528)

33 Sec. 2A-528. Lessor's damages for nonacceptance, failure
34 to pay, repudiation, or other default.

35 (1) Except as otherwise provided with respect to damages

1 liquidated in the lease agreement (Section 2A-504) or otherwise
2 determined pursuant to agreement of the parties (Sections 1-302
3 ~~1-102(3)~~ and 2A-503), if a lessor elects to retain the goods or
4 a lessor elects to dispose of the goods and the disposition is
5 by lease agreement that for any reason does not qualify for
6 treatment under Section 2A-527(2), or is by sale or otherwise,
7 the lessor may recover from the lessee as damages for a default
8 of the type described in Section 2A-523(1) or 2A-523(3) (a) or,
9 if agreed, for other default of the lessee, (i) accrued and
10 unpaid rent as of the date of default if the lessee has never
11 taken possession of the goods, or, if the lessee has taken
12 possession of the goods, as of the date the lessor repossesses
13 the goods or an earlier date on which the lessee makes a tender
14 of the goods to the lessor, (ii) the present value as of the
15 date determined under clause (i) of the total rent for the then
16 remaining lease term of the original lease agreement minus the
17 present value as of the same date of the market rent at the
18 place where the goods are located computed for the same lease
19 term, and (iii) any incidental damages allowed under Section
20 2A-530, less expenses saved in consequence of the lessee's
21 default.

22 (2) If the measure of damages provided in subsection (1) is
23 inadequate to put a lessor in as good a position as performance
24 would have, the measure of damages is the present value of the
25 profit, including reasonable overhead, the lessor would have
26 made from full performance by the lessee, together with any
27 incidental damages allowed under Section 2A-530, due allowance
28 for costs reasonably incurred and due credit for payments or
29 proceeds of disposition.

30 (Source: P.A. 87-493.)

31 (810 ILCS 5/3-103) (from Ch. 26, par. 3-103)

32 Sec. 3-103. Definitions.

33 (a) In this Article:

34 (1) "Acceptor" means a drawee that has accepted a
35 draft.

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

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

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

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

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

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

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

29 (9) "Promise" means a written undertaking to pay money
30 signed by the person undertaking to pay. An acknowledgment
31 of an obligation by the obligor is not a promise unless the
32 obligor also undertakes to pay the obligation.

33 (10) "Prove" with respect to a fact means to meet the
34 burden of establishing the fact (Section 1-201 (b) (8)).

35 (11) "Remitter" means a person that purchases an
36 instrument from its issuer if the instrument is payable to

1 an identified person other than the purchaser.

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

4	"Acceptance"	Section 3-409
5	"Accommodated party"	Section 3-419
6	"Accommodation party"	Section 3-419
7	"Alteration"	Section 3-407
8	"Anomalous indorsement"	Section 3-205
9	"Blank indorsement"	Section 3-205
10	"Cashier's check"	Section 3-104
11	"Certificate of deposit"	Section 3-104
12	"Certified check"	Section 3-409
13	"Check"	Section 3-104
14	"Consideration"	Section 3-303
15	"Draft"	Section 3-104
16	"Holder in due course"	Section 3-302
17	"Incomplete instrument"	Section 3-115
18	"Indorsement"	Section 3-204
19	"Indorser"	Section 3-204
20	"Instrument"	Section 3-104
21	"Issue"	Section 3-105
22	"Issuer"	Section 3-105
23	"Negotiable instrument"	Section 3-104
24	"Negotiation"	Section 3-201
25	"Note"	Section 3-104
26	"Payable at a definite time"	Section 3-108
27	"Payable on demand"	Section 3-108
28	"Payable to bearer"	Section 3-109
29	"Payable to order"	Section 3-109
30	"Payment"	Section 3-602
31	"Person entitled to enforce"	Section 3-301
32	"Presentment"	Section 3-501
33	"Reacquisition"	Section 3-207
34	"Special indorsement"	Section 3-205
35	"Teller's check"	Section 3-104
36	"Transfer of instrument"	Section 3-203

1 "Traveler's check" Section 3-104

2 "Value" Section 3-303

3 (c) The following definitions in other Articles apply to
4 this Article:

5 "Bank" Section 4-105

6 "Banking day" Section 4-104

7 "Clearing house" Section 4-104

8 "Collecting bank" Section 4-105

9 "Depository bank" Section 4-105

10 "Documentary draft" Section 4-104

11 "Intermediary bank" Section 4-105

12 "Item" Section 4-104

13 "Payor bank" Section 4-105

14 "Suspends payments" Section 4-104.

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

18 (Source: P.A. 87-582; 87-1135.)

19 (810 ILCS 5/4A-105) (from Ch. 26, par. 4A-105)

20 Sec. 4A-105. Other definitions.

21 (a) In this Article:

22 (1) "Authorized account" means a deposit account of a
23 customer in a bank designated by the customer as a source
24 of payment of payment orders issued by the customer to the
25 bank. If a customer does not so designate an account, any
26 account of the customer is an authorized account if payment
27 of a payment order from that account is not inconsistent
28 with a restriction on the use of that account.

29 (2) "Bank" means a person engaged in the business of
30 banking and includes a savings bank, savings and loan
31 association, credit union, and trust company. A branch or
32 separate office of a bank is a separate bank for purposes
33 of this Article.

34 (3) "Customer" means a person, including a bank, having
35 an account with a bank or from whom a bank has agreed to

1 receive payment orders.

2 (4) "Funds transfer business day" of a receiving bank
3 means the part of a day during which the receiving bank is
4 open for the receipt, processing, and transmittal of
5 payment orders and cancellations and amendments of payment
6 orders.

7 (5) "Funds transfer system" means a wire transfer
8 network, automated clearinghouse, or other communication
9 system of a clearing house or other association of banks
10 through which a payment order by a bank may be transmitted
11 to the bank to which the order is addressed.

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

15 (7) "Prove" with respect to a fact means to meet the
16 burden of establishing the fact (Section 1-201**(b)**(8)).

17 (b) Other definitions applying to this Article and the
18 Sections in which they appear are:

19	"Acceptance"	Section 4A-209
20	"Beneficiary"	Section 4A-103
21	"Beneficiary's bank"	Section 4A-103
22	"Executed"	Section 4A-301
23	"Execution date"	Section 4A-301
24	"Funds transfer"	Section 4A-104
25	"Funds transfer system rule"	Section 4A-501
26	"Intermediary bank"	Section 4A-104
27	"Originator"	Section 4A-104
28	"Originator's bank"	Section 4A-104
29	"Payment by beneficiary's bank 30 to beneficiary"	Section 4A-405
31	"Payment by originator to 32 beneficiary"	Section 4A-406
33	"Payment by sender 34 to receiving bank"	Section 4A-403
35	"Payment date"	Section 4A-401
36	"Payment order"	Section 4A-103

1 "Receiving bank" Section 4A-103
2 "Security procedure" Section 4A-201
3 "Sender" Section 4A-103

4 (c) The following definitions in Article 4 apply to this
5 Article:

6 "Clearing house" Section 4-104
7 "Item" Section 4-104
8 "Suspends payments" Section 4-104

9 (d) In addition, Article 1 contains general definitions and
10 principles of construction and interpretation applicable
11 throughout this Article.

12 (Source: P.A. 86-1291.)

13 (810 ILCS 5/4A-106) (from Ch. 26, par. 4A-106)

14 Sec. 4A-106. Time payment order is received.

15 (a) The time of receipt of a payment order or communication
16 cancelling or amending a payment order is determined by the
17 rules applicable to receipt of a notice stated in Section 1-202
18 ~~1-201(27)~~. A receiving bank may fix a cut-off time or times on
19 a funds transfer business day for the receipt and processing of
20 payment orders and communications cancelling or amending
21 payment orders. Different cut-off times may apply to payment
22 orders, cancellations, or amendments, or to different
23 categories of payment orders, cancellations, or amendments. A
24 cut-off time may apply to senders generally or different
25 cut-off times may apply to different senders or categories of
26 payment orders. If a payment order or communication cancelling
27 or amending a payment order is received after the close of a
28 funds transfer business day or after the appropriate cut-off
29 time on a funds transfer business day, the receiving bank may
30 treat the payment order or communication as received at the
31 opening of the next funds transfer business day.

32 (b) If this Article refers to an execution date or payment
33 date or states a day on which a receiving bank is required to
34 take action, and the date or day does not fall on a funds
35 transfer business day, the next day that is a funds transfer

1 business day is treated as the date or day stated, unless the
2 contrary is stated in this Article.

3 (Source: P.A. 86-1291.)

4 (810 ILCS 5/4A-204) (from Ch. 26, par. 4A-204)

5 Sec. 4A-204. Refund of payment and duty of customer to
6 report with respect to an unauthorized payment order.

7 (a) If a receiving bank accepts a payment order issued in
8 the name of its customer as sender which is (i) not authorized
9 and not effective as the order of the customer under Section
10 4A-202, or (ii) not enforceable, in whole or in part, against
11 the customer under Section 4A-203, the bank shall refund any
12 payment of the payment order received from the customer to the
13 extent the bank is not entitled to enforce payment and shall
14 pay interest on the refundable amount calculated from the date
15 the bank received payment to the date of the refund. However,
16 the customer is not entitled to interest from the bank on the
17 amount to be refunded if the customer fails to exercise
18 ordinary care to determine that the order was not authorized by
19 the customer and to notify the bank of the relevant facts
20 within a reasonable time not exceeding 90 days after the date
21 the customer received notification from the bank that the order
22 was accepted or that the customer's account was debited with
23 respect to the order. The bank is not entitled to any recovery
24 from the customer on account of a failure by the customer to
25 give notification as stated in this Section.

26 (b) Reasonable time under subsection (a) may be fixed by
27 agreement as stated in Section 1-302(b) ~~1-204(1)~~, but the
28 obligation of a receiving bank to refund payment as stated in
29 subsection (a) may not otherwise be varied by agreement.

30 (Source: P.A. 90-655, eff. 7-30-98.)

31 (810 ILCS 5/5-103) (from Ch. 26, par. 5-103)

32 Sec. 5-103. Scope.

33 (a) This Article applies to letters of credit and to
34 certain rights and obligations arising out of transactions

1 involving letters of credit.

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

6 (c) With the exception of this subsection, subsections (a)
7 and (d), Sections 5-102(a)(9) and (10), 5-106(d), and 5-114(d),
8 and except to the extent prohibited in Sections 1-302 ~~1-102(3)~~
9 and 5-117(d), the effect of this Article may be varied by
10 agreement or by a provision stated or incorporated by reference
11 in an undertaking. A term in an agreement or undertaking
12 generally excusing liability or generally limiting remedies
13 for failure to perform obligations is not sufficient to vary
14 obligations prescribed by this Article.

15 (d) Rights and obligations of an issuer to a beneficiary or
16 a nominated person under a letter of credit are independent of
17 the existence, performance, or nonperformance of a contract or
18 arrangement out of which the letter of credit arises or which
19 underlies it, including contracts or arrangements between the
20 issuer and the applicant and between the applicant and the
21 beneficiary.

22 (Source: P.A. 89-534, eff. 1-1-97.)