

CHAPTER 2010-131

Council Substitute for House Bill No. 731

An act relating to the Uniform Commercial Code; amending ss. 668.50 and 671.304, F.S.; correcting cross-references; amending ss. 671.201, 672.103, 672.104, 674.104, 677.102, and 679.1021, F.S.; revising and providing definitions; revising provisions pertaining to definitions applicable to certain provisions of the code, to conform cross-references to revisions made by this act; amending s. 672.310, F.S.; revising time when certain delivery payments are due; amending ss. 559.9232, 672.323, 672.401, 672.503, 672.505, 672.506, 672.509, 672.605, 672.705, 674.2101, 677.201, 677.202, 677.203, 677.205, 677.206, 677.207, 677.208, 677.301, 677.302, 677.304, 677.305, 677.401, 677.402, 677.403, 677.404, 677.502, 677.503, 677.505, 677.506, 677.507, 677.508, 677.509, 677.602, 677.603, 679.2031, 679.2071, 679.3011, 679.3101, 679.3121, 679.3131, 679.3141, 679.3171, 679.338, 680.1031, 680.514, and 680.526, F.S.; revising provisions to conform to changes made by this act; making editorial changes; amending s. 677.103, F.S.; revising and providing application in relation of chapter to treaty, statute, classification, or regulation; amending s. 677.104, F.S.; providing when certain documents of title are nonnegotiable; amending s. 677.105, F.S.; authorizing an issuer of the electronic document to issue a tangible document of title as a substitute for the electronic document under certain conditions; authorizing an issuer of a tangible document to issue an electronic document of title as a substitute for the tangible document under certain conditions; creating s. 677.106, F.S.; providing when certain persons have control of an electronic document of title; amending s. 677.204, F.S.; revising liability of certain damages; authorizing a warehouse receipt or storage agreement to provide certain requirements; amending s. 677.209, F.S.; revising conditions for a warehouse to establish a lien against a bailor; providing when and against whom the lien is effective; amending s. 677.210, F.S.; revising provisions relating to the enforcement of warehouse's liens; amending s. 677.303, F.S.; prohibiting liability for certain carriers; amending s. 677.307, F.S.; revising conditions under which a carrier has a lien on goods covered by a bill of lading; amending s. 677.308, F.S.; revising provisions relating to the enforcement of a carrier's lien; amending s. 677.309, F.S.; revising provisions relating to the contractual limitation of a carrier's liability; amending s. 677.501, F.S.; providing requirements for negotiable tangible documents of title and negotiable electronic documents of title; amending s. 677.504, F.S.; providing condition under which the rights of the transferee may be defeated; amending s. 677.601, F.S.; revising provisions relating to lost, stolen, or destroyed documents of title; amending s. 678.1031, F.S.; providing that certain documents of title are not financial assets; amending s. 679.2081, F.S.; providing requirements for secured parties having control of an electronic document; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (f) of subsection (2) of section 559.9232, Florida Statutes, is amended to read:

559.9232 Definitions; exclusion of rental-purchase agreements from certain regulations.—

(2) A rental-purchase agreement that complies with this act shall not be construed to be, nor be governed by, any of the following:

(f) A security interest as defined in s. 671.201(38)(35).

Section 2. Paragraph (d) of subsection (16) of section 668.50, Florida Statutes, is amended to read:

668.50 Uniform Electronic Transaction Act.—

(16) TRANSFERABLE RECORDS.—

(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in s. 671.201(21), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under s. 673.3021, s. 677.501, or s. ~~679.330~~ 679.308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this paragraph.

Section 3. Present subsections (25) through (43) of section 671.201, Florida Statutes, are renumbered as subsections (28) through (46), respectively, new subsections (25), (26), and (27) are added to that section, and present subsections (5), (6), (10), (15), (16), (21), and (42) are amended, to read:

671.201 General definitions.—Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other chapters of this code which apply to particular chapters or parts thereof, have the meanings stated. Subject to definitions contained in other chapters of this code which apply to particular chapters or parts thereof, the term:

(5) “Bearer” means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, a negotiable tangible document of title, or a certificated security that is payable to bearer or indorsed in blank.

(6) “Bill of lading” means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt.

(10) “Conspicuous,” with reference to a term, means so written, displayed, or presented that a reasonable person against which whom it is to operate ought to have noticed it. Whether a term is “conspicuous” is a decision for the court. Conspicuous terms include the following:

(a) A heading in capitals ~~in a size equal to or greater in size larger than that of the surrounding text,~~ or in contrasting a type, font, or color ~~in contrast to the surrounding text of the same or lesser size;~~ and.

(b) Language in the body of a record or display in larger type ~~larger than that of the surrounding text;~~ ~~in a type, font, or color in contrast to the surrounding text of the same size;~~ or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

(15) “Delivery,” with respect to an electronic document of title, means voluntary transfer of control and “delivery,” with respect to instruments instrument, tangible document of title, or chattel paper, or certificated securities, means voluntary transfer of possession.

(16) “Document of title” means a record:

(a) ~~includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and any other document~~ That in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record it is entitled to receive, control, hold, and dispose of the record document and the goods the record it covers; and

(b) That purports to be issued by or addressed to a bailee and to cover goods in the bailee’s possession which are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium. To be a document of title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee’s possession which are either identified or are fungible portions of an identified mass.

(21) “Holder” means:

(a) The person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession; ~~or~~

(b) The person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or.

(c) The person in control of a negotiable electronic document of title.

(25) Subject to subsection (27), a person has “notice” of a fact if the person:

(a) Has actual knowledge of it;

(b) Has received a notice or notification of it; or

(c) From all the facts and circumstances known to the person at the time in question, has reason to know that it exists. A person “knows” or has “knowledge” of a fact when the person has actual knowledge of it. “Discover” or “learn” or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this section.

(26) A person “notifies” or “gives” a notice or notification to another person by taking such steps as may be reasonably required to inform the other person in ordinary course, whether or not the other person actually comes to know of it. Subject to subsection (27), a person “receives” a notice or notification when:

(a) It comes to that person’s attention; or

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

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

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

Section 4. Subsection (5) of section 671.304, Florida Statutes, is amended to read:

671.304 Laws not repealed; precedence where code provisions in conflict with other laws; certain statutory remedies retained.—

(5) The effectiveness of any financing statement or continuation statement filed prior to January 1, 1980, or any continuation statement filed on or after October 1, 1984, which states that the debtor is a transmitting utility as

provided in s. ~~679.515(6)~~ 679.403(6) shall continue until a termination statement is filed, except that if this act requires a filing in an office where there was no previous financing statement, a new financing statement conforming to s. 680.109(4), Florida Statutes 1979, shall be filed in that office.

Section 5. Subsection (3) of section 672.103, Florida Statutes, is amended to read:

672.103 Definitions and index of definitions.—

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

“Check,” s. 673.1041.

“Consignee,” s. 677.102.

“Consignor,” s. 677.102.

“Consumer goods,” s. 679.1021.

“Control,” s. 677.106.

“Dishonor,” s. 673.5021.

“Draft,” s. 673.1041.

Section 6. Subsection (2) of section 672.104, Florida Statutes, is amended to read:

672.104 Definitions: “merchant”; “between merchants”; “financing agency.”—

(2) “Financing agency” means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller’s draft or making advances against it or by merely taking it for collection whether or not documents of title accompany or are associated with the draft. “Financing agency” includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (s. 672.707).

Section 7. Subsection (3) of section 672.310, Florida Statutes, is amended to read:

672.310 Open time for payment or running of credit; authority to ship under reservation.—Unless otherwise agreed:

(3) If delivery is authorized and made by way of documents of title otherwise than by subsection (2) then payment is due regardless of where the goods are to be received at the time and place at which the buyer is to receive

delivery of the tangible documents or at the time the buyer is to receive delivery of the electronic documents and at the seller's place of business or, if none, the seller's residence regardless of where the goods are to be received; and

Section 8. Section 672.323, Florida Statutes, is amended to read:

672.323 Form of bill of lading required in overseas shipment; "overseas."

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

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

(a) Due tender of a single part is acceptable within the provisions of this chapter on cure of improper delivery (s. 672.508(1)); and

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

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

Section 9. Subsections (2) and (3) of section 672.401, Florida Statutes, are amended to read:

672.401 Passing of title; reservation for security; limited application of this section.—Each provision of this chapter with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the provision refers to such title. Insofar as situations are not covered by the other provisions of this chapter and matters concerning title become material the following rules apply:

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

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

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

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

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

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

Section 10. Subsections (4) and (5) of section 672.503, Florida Statutes, are amended to read:

672.503 Manner of seller’s tender of delivery.—

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

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

(b) Tender to the buyer of a nonnegotiable document of title or of a record directing written direction ~~to the bailee to deliver~~ is sufficient tender unless the buyer seasonably objects, and, except as otherwise provided in chapter 679, receipt by the bailee of notification of the buyer’s rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the nonnegotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

(5) Where the contract requires the seller to deliver documents:

(a) He or she shall ~~must~~ tender all such documents in correct form, except as provided in this chapter with respect to bills of lading in a set (s. 672.323(2)); and

(b) Tender through customary banking channels is sufficient and dishonor of a draft accompanying or associated with the documents constitutes nonacceptance or rejection.

Section 11. Section 672.505, Florida Statutes, is amended to read:

672.505 Seller's shipment under reservation.—

(1) Where the seller has identified goods to the contract by or before shipment:

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

(b) A nonnegotiable bill of lading to himself or herself or his or her nominee reserves possession of the goods as security but except in a case of conditional delivery (s. 672.507(2)) a nonnegotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession or control of the bill of lading.

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

Section 12. Subsection (2) of section 672.506, Florida Statutes, is amended to read:

672.506 Rights of financing agency.—

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

Section 13. Subsection (2) of section 672.509, Florida Statutes, is amended to read:

672.509 Risk of loss in the absence of breach.—

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

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

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

(c) After her or his receipt of possession or control of a nonnegotiable document of title or other ~~written~~ direction to deliver in a record, as provided in s. 672.503(4)(b).

Section 14. Subsection (2) of section 672.605, Florida Statutes, is amended to read:

672.605 Waiver of buyer’s objections by failure to particularize.—

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

Section 15. Subsections (2) and (3) of section 672.705, Florida Statutes, are amended to read:

672.705 Seller’s stoppage of delivery in transit or otherwise.—

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

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

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

(c) Such acknowledgment to the buyer by a carrier by reshipment or as a warehouse warehouseman; or

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

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

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

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

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

Section 16. Subsection (3) of section 674.104, Florida Statutes, is amended to read:

674.104 Definitions and index of definitions.—

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

“Acceptance,” s. 673.4091.

“Alteration,” s. 673.4071.

“Cashier’s check,” s. 673.1041.

“Certificate of deposit,” s. 673.1041.

“Certified check,” s. 673.4091.

“Check,” s. 673.1041.

“Control,” s. 677.106.

“Good faith,” s. 673.1031.

“Holder in due course,” s. 673.3021.

“Instrument,” s. 673.1041.

“Notice of dishonor,” s. 673.5031.

“Order,” s. 673.1031.

“Ordinary care,” s. 673.1031.

“Person entitled to enforce,” s. 673.3011.

“Presentment,” s. 673.5011.

“Promise,” s. 673.1031.

“Prove,” s. 673.1031.

“Teller’s check,” s. 673.1041.

“Unauthorized signature,” s. 673.4031.

Section 17. Subsection (3) of section 674.2101, Florida Statutes, is amended to read:

674.2101 Security interest of collecting bank in items, accompanying documents, and proceeds.—

(3) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or possession or control of the accompanying or associated documents for purposes other than collection, the security interest continues to that extent and is subject to chapter 679, but:

(a) No security agreement is necessary to make the security interest enforceable (s. 679.2031(2)(c)1.);

(b) No filing is required to perfect the security interest; and

(c) The security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

Section 18. Section 677.102, Florida Statutes, is amended to read:

677.102 Definitions and index of definitions.—

(1) In this chapter, unless the context otherwise requires:

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

(b) “Carrier” means a person that issues a bill of lading.

~~(c)(b)~~ “Consignee” means a the person named in a bill of lading to which whom or to whose order the bill promises delivery.

~~(d)(e)~~ “Consignor” means a the person named in a bill of lading as the person from which whom the goods have been received for shipment.

~~(e)(d)~~ “Delivery order” means a record that contains an written order to deliver goods directed to a warehouse warehouseman, carrier, or other person that who in the ordinary course of business issues warehouse receipts or bills of lading.

(f) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.

~~(e)~~ “Document” means document of title as defined in the general definitions in chapter 671 (s. 671.201).

~~(g)(f)~~ “Goods” means all things that which are treated as movable for the purposes of a contract of storage or transportation.

~~(h)(g)~~ “Issuer” means a bailee who issues a document of title or, in the case of except that in relation to an unaccepted delivery order, it means the person who orders the possessor of goods to deliver. The term Issuer includes a any person for which whom an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, notwithstanding that the issuer received no goods or that the goods were misdescribed or that in any other respect the agent or employee violated his or her instructions.

(i) “Person entitled under the document” means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

(j) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(k) “Shipper” means a person that enters into a contract of transportation with a carrier.

(l) “Sign” means, with present intent to authenticate or adopt a record:

1. To execute or adopt a tangible symbol; or

2. To attach to or logically associate with the record an electronic sound, symbol, or process.

(m)(h) “Warehouse” means “Warehouseman” is a person engaged in the business of storing goods for hire.

(2) Other definitions applying to this chapter or to specified parts thereof, and the sections in which they appear are:

“Duly negotiate,” s. 677.501.

“Person entitled under the document,” s. 677.403(4).

(3) Definitions in other chapters applying to this chapter and the sections in which they appear are:

“Contract for sale,” s. 672.106.

“Overseas,” s. 672.323.

“Lessee in ordinary course of business,” s. 680.1031.

“Receipt” of goods, s. 672.103.

(3)(4) In addition, chapter 671 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

Section 19. Section 677.103, Florida Statutes, is amended to read:

677.103 Relation of chapter to treaty, statute, ~~tariff~~, classification, or regulation.—

(1) Except as otherwise provided in this chapter, this chapter is subject to the extent that any treaty or statute of the United States to the extent the treaty or statute, regulatory statute of this state or tariff, classification or regulation filed or issued pursuant thereto is applicable, the provisions of this chapter are subject thereto.

(2) This chapter does not modify or repeal any law prescribing the form or content of a document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a bailee’s business in respects not specifically treated in this chapter. However, a violation of such a law does not affect the status of a document of title that otherwise is within the definition of a document of title.

(3) This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. ss. 7001, et seq., but does not modify, limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or authorize electronic delivery of any of the notices described in s. 103(b) of that act, 15 U.S.C. s. 7003(b).

(4) To the extent that there is a conflict between any provisions of the laws of this state regarding electronic transactions and this chapter, this chapter governs.

Section 20. Section 677.104, Florida Statutes, is amended to read:

~~677.104 Negotiable and nonnegotiable warehouse receipt, bill of lading or other document of title.—~~

~~(1) Except as otherwise provided in subsection (3), a warehouse receipt, bill of lading or other document of title is negotiable:~~

~~(a) if by its terms the goods are to be delivered to bearer or to the order of a named person; or~~

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

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

~~(3) A document of title is nonnegotiable if, at the time it is issued, the document has a conspicuous legend, however expressed, that it is nonnegotiable.~~

Section 21. Section 677.105, Florida Statutes, is amended to read:

~~677.105 Reissuance in alternative medium Construction against negative implication.—~~

~~(1) Upon request of a person entitled under an electronic document of title, the issuer of the electronic document may issue a tangible document of title as a substitute for the electronic document if:~~

~~(a) The person entitled under the electronic document surrenders control of the document to the issuer; and~~

~~(b) The tangible document when issued contains a statement that it is issued in substitution for the electronic document.~~

~~(2) Upon issuance of a tangible document of title in substitution for an electronic document of title in accordance with subsection (1):~~

(a) The electronic document ceases to have any effect or validity; and

(b) The person that procured issuance of the tangible document warrants to all subsequent persons entitled under the tangible document that the warrantor was a person entitled under the electronic document when the warrantor surrendered control of the electronic document to the issuer.

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

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

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

(4) Upon issuance of an electronic document of title in substitution for a tangible document of title is accordance with subsection (3):

(a) The tangible document ceases to have any effect or validity; and

(b) The person that procured issuance of the electronic document warrants to all subsequent persons entitled under the electronic document that the warrantor was a person entitled under the tangible document when the warrantor surrendered possession of the tangible document to the issuer. The omission from either part II or part III of this chapter of a provision corresponding to a provision made in the other part does not imply that a corresponding rule of law is not applicable.

Section 22. Section 677.106, Florida Statutes, is created to read:

677.106 Control of electronic document of title.—

(1) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(2) A system satisfies subsection (1), and a person is deemed to have control of an electronic document of title, if the document is created, stored, and assigned in a manner that:

(a) A single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in paragraphs (d), (e), and (f), unalterable;

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

1. The person to which the document was issued; or

2. If the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

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

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

(e) 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

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

Section 23. Section 677.201, Florida Statutes, is amended to read:

677.201 ~~Persons that~~ Who may issue a warehouse receipt; storage under government bond.—

(1) A warehouse receipt may be issued by any warehouse ~~warehouseman~~.

(2) ~~If Where~~ goods, including distilled spirits and agricultural commodities, are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods is deemed to be ~~has like effect as~~ a warehouse receipt even ~~if though~~ issued by a person that who is the owner of the goods and is not a warehouse ~~warehouseman~~.

Section 24. Section 677.202, Florida Statutes, is amended to read:

677.202 Form of warehouse receipt; effect of omission ~~essential terms;~~ ~~optional terms~~.—

(1) A warehouse receipt need not be in any particular form.

(2) Unless a warehouse receipt provides for ~~embodies within its written or printed terms~~ each of the following, the warehouse ~~warehouseman~~ is liable for damages caused to a person injured by its ~~by the omission to a person injured thereby~~:

(a) A statement of the location of the warehouse facility where the goods are stored;

(b) The date of issue of the receipt;

(c) The unique identification code ~~consecutive number~~ of the receipt;

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

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

(f) A description of the goods or of the packages containing them;

(g) The signature of the warehouse or its warehouseman, which may be made by his or her authorized agent;

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

(i) A statement of the amount of advances made and of liabilities incurred for which the warehouse warehouseman claims a lien or security interest, unless (s. 677.209). If the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt is, unknown to the warehouse warehouseman or to its his or her agent that issued the receipt, in which case who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose of the advances or liabilities thereof is sufficient.

(3) A warehouse warehouseman may insert in its his or her receipt any other terms that which are not contrary to the provisions of this code and do not impair its his or her obligation of delivery under s. 677.403 (s. 677.403) or its his or her duty of care under s. 677.204 (s. 677.204). Any contrary provision is provisions shall be ineffective.

Section 25. Section 677.203, Florida Statutes, is amended to read:

677.203 Liability of nonreceipt or misdescription.—A party to or purchaser for value in good faith of a document of title, other than a bill of lading, that relies relying in either case upon the description therein of the goods in the document may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

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

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

Section 26. Section 677.204, Florida Statutes, is amended to read:

677.204 Duty of care; contractual limitation of warehouse's warehouseman's liability.—

(1) A warehouse warehouseman is liable for damages for loss of or injury to the goods caused by its his or her failure to exercise such care with in regard to the goods that them as a reasonably careful person would exercise under similar like circumstances, ~~but~~ Unless otherwise agreed, the warehouse he or she is not liable for damages that which could not have been avoided by the exercise of that such care.

(2) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage, and setting forth a specific liability per article or item, or value per unit of weight, or any other negotiated limitation of damages as agreed upon between the parties beyond which the warehouse is warehouseman shall not be liable. Such a limitation is not effective with respect to the warehouse's liability for conversion to its own use. On; provided, however, that such liability may on written request of the bailor in a record at the time of signing the such storage agreement or within a reasonable time after receipt of the warehouse receipt, the warehouse's liability may be increased on part or all of the goods covered by the storage agreement or the warehouse receipt. In this event, thereunder, in which event increased rates may be charged based on an such increased valuation of the goods, but that no such increase shall be permitted contrary to a lawful limitation of liability contained in the warehouseman's tariff, if any. No such limitation is effective with respect to the warehouseman's liability for conversion to his or her own use.

(3) Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the bailment may be included in the warehouse receipt or storage agreement.

~~(4)~~(3) This section does not impair or repeal any statute which imposes a higher responsibility upon the warehouse warehouseman or invalidates contractual limitations which would be permissible under this chapter.

Section 27. Section 677.205, Florida Statutes, is amended to read:

677.205 Title under warehouse receipt defeated in certain cases.—A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouse that warehouseman who is also in the business of buying and selling such goods takes the goods free of any claim under a warehouse receipt even if the receipt is negotiable and though it has been duly negotiated.

Section 28. Section 677.206, Florida Statutes, is amended to read:

677.206 Termination of storage at warehouse's warehouseman's option.

(1) A warehouse, by giving notice to warehouseman may on notifying the person on whose account the goods are held and any other person known to claim an interest in the goods, may require payment of any charges and

removal of the goods from the warehouse at the termination of the period of storage fixed by the document of title or by a nonnegotiable warehouse receipt, or, if a ~~no~~ period is not fixed, within a stated period not less than 30 days after the warehouse gives notice ~~notification~~. If the goods are not removed before the date specified in the notice ~~notification~~, the warehouse warehouseman may sell them pursuant to s. 677.210 ~~in accordance with the provisions of the section on enforcement of a warehouseman's lien (s. 677.210)~~.

(2) If a warehouse warehouseman in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of its his ~~or her~~ lien within the time provided ~~prescribed~~ in subsection (1) and s. 677.210 ~~for notification, advertisement and sale~~, the warehouse warehouseman may specify in the notice given under subsection (1) ~~notification~~ any reasonable shorter time for removal of the goods and, if in case ~~if~~ the goods are not removed, may sell them at public sale held not less than 1 week after a single advertisement or posting.

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

(4) A warehouse shall ~~The warehouseman must~~ deliver the goods to any person entitled to them under this chapter upon due demand made at any time before ~~prior to~~ sale or other disposition under this section.

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

Section 29. Section 677.207, Florida Statutes, is amended to read:

677.207 Goods shall must be kept separate; fungible goods.—

(1) Unless the warehouse receipt ~~otherwise provides~~ otherwise, a warehouse shall ~~warehouseman must~~ keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods. However, ~~except that~~ different lots of fungible goods may be commingled.

(2) If different lots of fungible goods are so ~~are~~ commingled, the goods are owned in common by the persons entitled thereto and the warehouse warehouseman is severally liable to each owner for that owner's share. If, ~~Where~~ because of overissue, a mass of fungible goods is insufficient to meet

all the receipts which the warehouse warehouseman has issued against it, the persons entitled include all holders to whom overissued receipts have been duly negotiated.

Section 30. Section 677.208, Florida Statutes, is amended to read:

677.208 Altered warehouse receipts.—~~If~~ Where a blank in a negotiable warehouse receipt has been filled in without authority, a good faith purchaser for value and without notice of the lack ~~want~~ of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any tangible or electronic warehouse receipt enforceable against the issuer according to its original tenor.

Section 31. Section 677.209, Florida Statutes, is amended to read:

677.209 Lien of warehouse warehouseman.—

(1) A warehouse warehouseman has a lien against the bailor on the goods covered by a warehouse receipt or storage agreement or on the proceeds thereof in its ~~his or her~~ possession for charges for storage or transportation, including demurrage and terminal charges (~~including demurrage and terminal charges~~), insurance, labor, or other charges, present or future, in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for similar ~~like~~ charges or expenses in relation to other goods whenever deposited and it is stated in the warehouse receipt or storage agreement that a lien is claimed for charges and expenses in relation to other goods, the warehouse warehouseman also has a lien against the goods covered by the warehouse receipt or storage agreement or on the proceeds thereof in its possession ~~him or her~~ for those ~~such~~ charges and expenses, whether or not the other goods have been delivered by the warehouse warehouseman. However, as ~~But~~ against a person to which ~~whom~~ a negotiable warehouse receipt is duly negotiated, a warehouse's ~~warehouseman's~~ lien is limited to charges in an amount or at a rate specified in ~~on~~ the warehouse receipt or, if no charges are so specified, then ~~to~~ a reasonable charge for storage of the specific goods covered by the receipt subsequent to the date of the receipt.

(2) A warehouse ~~The~~ warehouseman may also reserve a security interest against the bailor for the ~~a~~ maximum amount specified on the receipt for charges other than those specified in subsection (1), such as for money advanced and interest. The ~~Such~~ a security interest is governed by chapter 679 ~~the chapter on secured transactions (chapter 679)~~.

(3) A warehouse's ~~warehouseman's~~ lien for charges and expenses under subsection (1) or a security interest under subsection (2) is also effective against any person that ~~who~~ so entrusted the bailor with possession of the goods that a pledge of them by the bailor ~~him or her~~ to a good faith ~~good faith~~ purchaser for value would have been valid. However, the lien or security interest ~~but~~ is not effective against a person that ~~before~~ issuance of a

document of title had a legal interest or a perfected security interest in the goods and that did not:

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

1. Actual or apparent authority to ship, store, or sell;
2. Power to obtain delivery under s. 677.403; or
3. Power of disposition under s. 672.403, s. 680.304(2), s. 680.305(2), s. 679.320, or s. 679.321(3) or other statute or rule of law; or

(b) Acquiesce in the procurement by the bailor or its nominee of any document as to whom the document confers no right in the goods covered by it under s. 677.503.

(4) A warehouse's lien on household goods for charges and expenses in relation to the goods under subsection (1) is also effective against all persons if the depositor was the legal possessor of the goods at the time of deposit. In this subsection, the term "household goods" means furniture, furnishings, or personal effects used by the depositor in a dwelling.

(5)(4) A warehouse warehouseman loses its his or her lien on any goods that it which he or she voluntarily delivers or which he or she unjustifiably refuses to deliver.

Section 32. Section 677.210, Florida Statutes, is amended to read:

677.210 Enforcement of warehouse's warehouseman's lien.—

(1) Except as provided in subsection (2), a warehouse's warehouseman's lien may be enforced by public or private sale of the goods, in bulk or in packages in block or in parcels, at any time or place and on any terms that which are commercially reasonable, after notifying all persons known to claim an interest in the goods. The Such notification shall ~~must~~ include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the warehouse warehouseman is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The warehouse sells in a commercially reasonable manner if the warehouse ~~If the warehouseman either sells the goods in the usual manner in any recognized market therefor, or if he or she sells at the price current in that such market at the time of the his or her sale, or if he or she has otherwise sells sold in conformity with commercially reasonable practices among dealers in the type of goods sold, he or she has sold in a commercially reasonable manner.~~ A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

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

(a) All persons known to claim an interest in the goods shall must be notified.

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

(c) The notification shall must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than 10 days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.

(d) The sale shall must conform to the terms of the notification.

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

(f) After the expiration of the time given in the notification, an advertisement of the sale shall must be published once a week for 2 weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement shall must include a description of the goods, the name of the person on whose account they are being held, and the time and place of the sale. The sale shall must take place at least 15 days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement shall must be posted at least 10 days before the sale in not fewer less than 6 conspicuous places in the neighborhood of the proposed sale.

(3) Before any sale pursuant to this section any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying with ~~under~~ this section. In that event, the goods may must not be sold, but shall must be retained by the warehouse ~~warehouseman~~ subject to the terms of the receipt and this chapter.

(4) A warehouse ~~The warehouseman~~ may buy at any public sale held pursuant to this section.

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

(6) A warehouse ~~The warehouseman~~ may satisfy its ~~his or her~~ lien from the proceeds of any sale pursuant to this section but shall must hold the

balance, if any, for delivery on demand to any person to which the warehouse whom he or she would have been bound to deliver the goods.

(7) The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against a his or her debtor.

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

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

Section 33. Section 677.301, Florida Statutes, is amended to read:

677.301 Liability for nonreceipt or misdescription; “said to contain”; “shipper’s weight, load, and count”; improper handling.—

(1) A consignee of a nonnegotiable bill of lading which who has given value in good faith, or a holder to which whom a negotiable bill has been duly negotiated, relying ~~in either case~~ upon the description ~~therein~~ of the goods in the bill; or upon the date ~~therein~~ shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the bill document indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, such as in the case in which where the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by “contents or condition of contents of packages unknown,” “said to contain,” “shipper’s weight, load, and count” or words of similar import the like, if that such indication is be true.

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

(a) The issuer shall must count the packages of goods if shipped in packages package freight and ascertain the kind and quantity if shipped in bulk; and freight.

(b) Words In such as eases “shipper’s weight, load, and count” or other words of similar import indicating that the description was made by the shipper are ineffective except as to goods freight concealed in by packages.

(3) ~~If When~~ bulk goods are freight is loaded by a shipper that who makes available to the issuer of a bill of lading adequate facilities for weighing those goods, the such freight, an issuer shall who is a common carrier must ascertain the kind and quantity within a reasonable time after receiving the shipper’s written request of the shipper to do so. In that case such cases “shipper’s weight, load, and count” or other words of similar import like purport are ineffective.

(4) The issuer of a bill of lading, may by including inserting in the bill the words “shipper’s weight, load, and count” or other words of similar import, may like purport indicate that the goods were loaded by the shipper,; and if that such statement is be true, the issuer is shall not be liable for damages caused by the improper loading. However, But their omission of such words does not imply liability for such damages caused by improper loading.

(5) A The shipper guarantees shall be deemed to have guaranteed to an the issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition and weight, as furnished by the shipper, him or her; and the shipper shall indemnify the issuer against damage caused by inaccuracies in those such particulars. This The right of the issuer to such indemnity does not shall in no way limit the issuer’s his or her responsibility or and liability under the contract of carriage to any person other than the shipper.

Section 34. Section 677.302, Florida Statutes, is amended to read:

677.302 Through bills of lading and similar documents of title.—

(1) The issuer of a through bill of lading, or other document of title embodying an undertaking to be performed in part by a person persons acting as its agent agents or by a performing carrier, connecting carriers is liable to any person anyone entitled to recover on the bill or other document for any breach by the such other person persons or the performing by a connecting carrier of its obligation under the bill or other document. However, but to the extent that the bill or other document covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability for breach by the other person or the performing carrier may be varied by agreement of the parties.

(2) If Where goods covered by a through bill of lading or other document of title embodying an undertaking to be performed in part by a person persons other than the issuer are received by that any such person, the person he or she is subject, with respect to its his or her own performance while the goods are in its his or her possession, to the obligation of the issuer. The person’s His or her obligation is discharged by delivery of the goods to another such person pursuant to the bill or other document,; and does not include liability for breach by any other person such persons or by the issuer.

(3) The issuer of a such through bill of lading or other document of title described in subsection (1) is shall be entitled to recover from the performing connecting carrier, or such other person in possession of the goods when the breach of the obligation under the bill or other document occurred,;

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

(b) The amount of any expense reasonably incurred by the insurer it in defending any action commenced brought by any person anyone entitled to recover on the bill or other document for the breach therefor.

Section 35. Section 677.303, Florida Statutes, is amended to read:

677.303 Diversion; reconsignment; change of instructions.—

(1) Unless the bill of lading otherwise provides, a the carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, without liability for misdelivery, on instructions from:

(a) The holder of a negotiable bill; ~~or~~

(b) The consignor on a nonnegotiable bill, even if the consignee has given notwithstanding contrary instructions ~~from the consignee; or~~

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

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

(2) Unless ~~such~~ instructions described in subsection (1) are included in ~~noted on~~ a negotiable bill of lading, a person to which whom the bill is duly negotiated may ~~can~~ hold the bailee according to the original terms.

Section 36. Section 677.304, Florida Statutes, is amended to read:

677.304 Tangible bills of lading in a set.—

(1) Except as where customary in international overseas transportation, a tangible bill of lading may ~~must~~ not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

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

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

(4) ~~A~~ Any person that who negotiates or transfers a single part of a tangible bill of lading ~~issued~~ drawn in a set is liable to holders of that part as if it were the whole set.

(5) The bailee ~~shall is obliged to~~ deliver in accordance with part IV of this chapter against the first presented part of a tangible bill of lading lawfully drawn in a set. ~~Such~~ Delivery in this manner discharges the bailee's obligation on the whole bill.

Section 37. Section 677.305, Florida Statutes, is amended to read:

677.305 Destination bills.—

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

(2) Upon request of any person ~~anyone~~ entitled as against the carrier to control the goods while in transit and on surrender of possession or control of any outstanding bill of lading or other receipt covering such goods, the issuer, subject to s. 677.105, may procure a substitute bill to be issued at any place designated in the request.

Section 38. Section 677.307, Florida Statutes, is amended to read:

677.307 Lien of carrier.—

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

(2) A lien for charges and expenses under subsection (1) on goods that ~~which~~ the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to those ~~such~~ charges and expenses. Any other lien under subsection (1) is effective against the consignor and any person that ~~who~~ permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked ~~such~~ authority.

(3) A carrier loses its ~~his or her~~ lien on any goods that it ~~which the carrier~~ voluntarily delivers or which ~~he or she~~ unjustifiably refuses to deliver.

Section 39. Section 677.308, Florida Statutes, is amended to read:

677.308 Enforcement of carrier's lien.—

(1) A carrier's lien on goods may be enforced by public or private sale of the goods, in ~~bulk block~~ or in ~~packages parcels~~, at any time or place and on any terms ~~that which~~ are commercially reasonable, after notifying all persons known to claim an interest in the goods. ~~The~~ ~~Such~~ notification ~~shall~~ ~~must~~ include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a ~~method~~ ~~different method~~ from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. ~~If~~ ~~The~~ ~~carrier~~ ~~either~~ ~~sells~~ ~~the~~ ~~goods~~ ~~in~~ ~~a~~ ~~commercially~~ ~~reasonable~~ ~~the~~ ~~usual~~ ~~manner~~ ~~in~~ ~~any~~ ~~recognized~~ ~~market~~ ~~therefor~~ ~~or~~ ~~if~~ ~~the~~ ~~carrier~~ ~~he~~ ~~or~~ ~~she~~ ~~sells~~ ~~the~~ ~~goods~~ ~~in~~ ~~the~~ ~~usual~~ ~~manner~~ ~~in~~ ~~any~~ ~~recognized~~ ~~market~~ ~~therefor~~, ~~sells~~ at the price current in ~~that~~ ~~such~~ ~~market~~ at the time of ~~the~~ ~~his~~ ~~or~~ ~~her~~ ~~sale~~, or if ~~the~~ ~~carrier~~ ~~has~~ ~~otherwise~~ ~~sells~~ ~~sold~~ in conformity with commercially reasonable practices among dealers in the type of goods sold ~~he~~ ~~or~~ ~~she~~ ~~has~~ ~~sold~~ in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

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

(3) The carrier may buy at any public sale pursuant to this section.

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

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

(6) The rights provided by this section ~~are~~ ~~shall~~ be in addition to all other rights allowed by law to a creditor against ~~a~~ ~~his~~ ~~or~~ ~~her~~ debtor.

(7) A carrier's lien may be enforced ~~pursuant to in accordance with~~ either subsection (1) or the procedure set forth in s. 677.210(2).

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

Section 40. Section 677.309, Florida Statutes, is amended to read:

677.309 Duty of care; contractual limitation of carrier's liability.—

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

(2) Damages may be limited by a term in the bill of lading or in a transportation agreement ~~provision~~ that the carrier's liability may shall not exceed a value stated in the bill or transportation agreement ~~document~~ if the carrier's rates are dependent upon value and the consignor ~~by the carrier's tariff~~ is afforded an opportunity to declare a higher value and the consignor ~~or a value as lawfully provided in the tariff, or where no tariff is filed he or she~~ is otherwise advised of the ~~such~~ opportunity. ~~However,; but no~~ such a limitation is not effective with respect to the carrier's liability for conversion to its own use.

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

Section 41. Section 677.401, Florida Statutes, is amended to read:

677.401 Irregularities in issue of receipt or bill or conduct of issuer.—The obligations imposed by this chapter on an issuer apply to a document of title even if ~~regardless of the fact that~~:

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

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

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

(4) The person issuing the document is not a warehouse but the document ~~does not come within the definition of warehouseman if it purports to be a~~ warehouse receipt.

Section 42. Section 677.402, Florida Statutes, is amended to read:

677.402 Duplicate document of title receipt or bill; overissue.—Neither A duplicate ~~or nor~~ any other document of title purporting to cover goods already represented by an outstanding document of the same issuer does not confer ~~confers~~ any right in the goods, except as provided in the case of tangible bills of lading in a set of parts, overissue of documents for fungible goods, and substitutes for lost, stolen or destroyed documents, or substitute documents

~~issued pursuant to s. 677.105. But~~ The issuer is liable for damages caused by its ~~his or her~~ overissue or failure to identify a duplicate document as such by a conspicuous notation ~~on its face~~.

Section 43. Section 677.403, Florida Statutes, is amended to read:

677.403 Obligation of ~~bailee warehouseman or carrier~~ to deliver; excuse.

(1) ~~A~~ The bailee ~~shall~~ ~~must~~ deliver the goods to a person entitled under a ~~the~~ document of title ~~if the person who~~ complies with subsections (2) and (3), unless and to the extent that the bailee establishes any of the following:

(a) Delivery of the goods to a person whose receipt was rightful as against the claimant;

(b) Damage to or delay, loss or destruction of the goods for which the bailee is not liable, but the burden of establishing negligence in such cases when value of such damage, delay, loss, or destruction exceeds \$10,000 is on the person entitled under the document;

(c) Previous sale or other disposition of the goods in lawful enforcement of a lien or on ~~a warehouse's warehouseman's~~ lawful termination of storage;

(d) The exercise by a seller of ~~its~~ ~~his or her~~ right to stop delivery pursuant to s. 672.705 or by a lessor of ~~its~~ right to stop delivery pursuant to s. 680.526 ~~the provisions of the chapter on sales (s. 672.705);~~

(e) A diversion, reconsignment, or other disposition pursuant to ~~s. 677.303~~ ~~the provisions of this chapter (s. 677.303)~~ or tariff regulating such right;

(f) Release, satisfaction, or any other ~~fact~~ ~~affording~~ a personal defense against the claimant; ~~or~~

(g) Any other lawful excuse.

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

(3) Unless ~~a~~ the person claiming ~~the goods~~ is a ~~person~~ ~~one~~ against ~~which~~ ~~whom~~ the document of title does not confer a ~~confers~~ ~~no~~ right under s. 677.503(1);

(a) ~~The person claiming under a document shall~~ ~~he or she~~ ~~must~~ surrender possession or control of any outstanding negotiable document covering the goods for cancellation or indication of partial deliveries; and

(b) ~~for cancellation or notation of partial deliveries any outstanding negotiable document covering the goods, and~~ The bailee ~~shall~~ ~~must~~ cancel the document or conspicuously ~~indicate in the document~~ ~~note~~ the partial delivery

thereon or the bailee is be liable to any person to which whom the document is duly negotiated.

~~(4) “Person entitled under the document” means holder in the case of a negotiable document, or the person to whom delivery is to be made by the terms of or pursuant to written instructions under a nonnegotiable document.~~

Section 44. Section 677.404, Florida Statutes, is amended to read:

677.404 No liability for good faith delivery pursuant to document of title receipt or bill.—A bailee that who in good faith ~~including observance of reasonable commercial standards~~ has received goods and delivered or otherwise disposed of the goods them according to the terms of the document of title or pursuant to this chapter is not liable for the goods therefor. ~~This rule applies even if:~~

~~(1) though~~ The person from which the bailee whom he or she received the goods did not have had no authority to procure the document or to dispose of the goods; or

~~(2) The and even though~~ the person to which the bailee whom he or she delivered the goods did not have had no authority to receive the goods them.

Section 45. Section 677.501, Florida Statutes, is amended to read:

677.501 Form of negotiation and requirements of “due negotiation.”—

(1) The following rules apply to a negotiable tangible document of title:

(a) If the document’s original terms run running to the order of a named person, the document is negotiated by the named person’s indorsement and delivery. After the named person’s his or her indorsement in blank or to bearer, any person may can negotiate the document it by delivery alone.

(b) If the document’s original

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

(c) If the document’s original terms run

~~(b) When a document running to the order of a named person and it is delivered to the named person, him or her the effect is the same as if the document had been negotiated.~~

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

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

(2) The following rules apply to a negotiable electronic document of title:

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

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

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

~~(3)(5)~~ Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee’s rights.

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

Section 46. Section 677.502, Florida Statutes, is amended to read:

677.502 Rights acquired by due negotiation.—

(1) Subject to ss. ~~the following section and to the provisions of s. 677.205 and 677.503~~ on fungible goods, a holder to which ~~whom~~ a negotiable document of title has been duly negotiated acquires thereby:

(a) Title to the document;

(b) Title to the goods;

(c) All rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(d) The direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by the

~~issuer him or her~~ except those arising under the terms of the document or under this chapter, ~~but~~, in the case of a delivery order, the bailee's obligation accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2) Subject to the following section, title and rights so acquired by due negotiation are not defeated by any stoppage of the goods represented by the document of title or by surrender of ~~the such~~ goods by the bailee, and are not impaired even if:

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

(b) Any person has been deprived of possession of a negotiable tangible ~~the document or control of a negotiable electronic document~~ by misrepresentation, fraud, accident, mistake, duress, loss, theft, or conversion; ~~or even though~~

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

Section 47. Section 677.503, Florida Statutes, is amended to read:

677.503 Document of title to goods defeated in certain cases.—

(1) A document of title confers no right in goods against a person ~~that who~~ before issuance of the document had a legal interest or a perfected security interest in ~~the goods them and that did not who neither~~:

(a) Deliver or entrust the goods ~~Delivered or entrusted them~~ or any document of title covering the goods them to the bailor or the bailor's nominee with:

1. Actual or apparent authority to ship, store, or sell; ~~or with~~

2. Power to obtain delivery under s. 677.403; ~~this chapter (s. 677.403) or with~~

3. Power of disposition under s. 672.403, s. 680.304(2), s. 680.305(2), s. 679.320, or s. 679.321(3) ~~this code (ss. 672.403 and 679.320) or other statute or rule of law; or nor~~

(b)(b) Acquiesce ~~Acquiesced~~ in the procurement by the bailor or its ~~the~~ bailor's nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of any person ~~anyone~~ to which ~~whom~~ a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. ~~That~~ ~~Such~~ a title may be defeated under the next section to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of any person ~~anyone~~ to which ~~whom~~ a bill issued by the freight forwarder is duly negotiated. ~~However,;~~ but delivery by the carrier in accordance with part IV of this chapter pursuant to its own bill of lading discharges the carrier's obligation to deliver.

Section 48. Section 677.504, Florida Statutes, is amended to read:

677.504 Rights acquired in the absence of due negotiation; effect of diversion; seller's stoppage of delivery.—

(1) A transferee of a document of title, whether negotiable or nonnegotiable, to which ~~whom~~ the document has been delivered but not duly negotiated, acquires the title and rights that its ~~which his or her~~ transferor had or had actual authority to convey.

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

(a) By those creditors of the transferor which ~~who~~ could treat the transfer sale as void under s. 672.402 or s. 680.308; ~~or~~

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

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

(d)(e) As against the bailee, by good-faith ~~good faith~~ dealings of the bailee with the transferor.

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

(4) Delivery of the goods pursuant to a nonnegotiable document of title may be stopped by a seller under s. 672.705 or by a lessor under s. 680.526, and subject to the requirements ~~requirement~~ of due notification ~~there~~ provided. A bailee that honors ~~honoring~~ the seller's or lessor's instructions is entitled to be indemnified by the seller or lessor against any resulting loss or expense.

Section 49. Section 677.505, Florida Statutes, is amended to read:

677.505 Indorser not a guarantor for other parties.—The indorsement of a tangible document of title issued by a bailee does not make the indorser liable for any default by the bailee or by previous indorsers.

Section 50. Section 677.506, Florida Statutes, is amended to read:

677.506 Delivery without indorsement; right to compel indorsement.—The transferee of a negotiable tangible document of title has a specifically enforceable right to have its ~~his or her~~ transferor supply any necessary indorsement but the transfer becomes a negotiation only as of the time the indorsement is supplied.

Section 51. Section 677.507, Florida Statutes, is amended to read:

677.507 Warranties on negotiation or delivery of document of title transfer of receipt or bill.—~~If~~ Where a person negotiates or ~~delivers~~ transfers a document of title for value, otherwise than as a mere intermediary under the next following section, ~~then~~ unless otherwise agreed, the transferor, in addition to any warranty made in selling or leasing the goods, person warrants to its his or her immediate purchaser only that in addition to any warranty made in selling the goods:

- (1) ~~That~~ The document is genuine; ~~and~~
- (2) ~~The transferor does not have~~ That he or she has no knowledge of any fact ~~that which~~ would impair the document's its validity or worth; and
- (3) ~~The~~ That his or her negotiation or delivery transfer is rightful and fully effective with respect to the title to the document and the goods it represents.

Section 52. Section 677.508, Florida Statutes, is amended to read:

677.508 Warranties of collecting bank as to documents of title.—A collecting bank or other intermediary known to be entrusted with documents of title on behalf of another or with collection of a draft or other claim against delivery of documents warrants by the such delivery of the documents only its own good faith and authority. ~~This rule applies even if though the collecting bank or other intermediary has purchased or made advances against the claim or draft to be collected.~~

Section 53. Section 677.509, Florida Statutes, is amended to read:

677.509 ~~Receipt or bill; when~~ Adequate compliance with commercial contract.—~~The question~~ Whether a document of title is adequate to fulfill the obligations of a contract for sale, ~~or the conditions of a letter of credit, or a contract for lease is determined governed by chapter 672, chapter 675, or chapter 680 the chapters on sales (chapter 672) and on letters of credit (chapter 675).~~

Section 54. Section 677.601, Florida Statutes, is amended to read:

677.601 Lost, stolen, or destroyed and missing documents of title.—

(1) If a document of title ~~is has been~~ lost, stolen, or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with the ~~such~~ order. If the document was negotiable, a court may not order delivery of the goods or the issuance of a substitute document without the claimant's posting claimant must post security unless it finds that approved by the court to indemnify any person that who may suffer loss as a result of nonsurrender of possession or control of the document is adequately protected against the loss. If the document was ~~nonnegotiable not negotiable,~~ the court ~~such~~ security may require security ~~be required at the discretion of the court.~~ The court may also ~~in its discretion~~ order payment of the bailee's reasonable costs and attorney's counsel fees ~~in any action under this subsection.~~

(2) A bailee ~~that, who~~ without a court order, delivers goods to a person claiming under a missing negotiable document of title is liable to any person injured thereby, ~~and~~ If the delivery is not in good faith, the bailee is ~~becomes~~ liable for conversion. Delivery in good faith is not conversion if made in accordance with a filed classification or tariff or, ~~where no classification or tariff is filed,~~ if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery which ~~who~~ files a notice of claim within 1 year after the delivery.

Section 55. Section 677.602, Florida Statutes, is amended to read:

677.602 Judicial process against Attachment ~~of~~ goods covered by a negotiable document of title.—Unless a ~~Except~~ where the document of title was originally issued upon delivery of the goods by a person that did not have who had no power to dispose of them, a no lien does not attach ~~attaches~~ by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless possession or control of the document is ~~is~~ first surrendered to the bailee or the document's ~~its~~ negotiation is ~~enjoined,~~ ~~and~~ The bailee may ~~shall~~ not be compelled to deliver the goods pursuant to process until possession or control of the document is surrendered to the bailee or to him or her or impounded by the court. A purchaser of ~~One who purchases~~ the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

Section 56. Section 677.603, Florida Statutes, is amended to read:

677.603 Conflicting claims; interpleader.—If more than one person claims title to or possession of the goods, the bailee is excused from delivery until the bailee ~~he or she~~ has had a reasonable time to ascertain the validity of the adverse claims or to commence ~~bring~~ an action for ~~to compel all claimants to interplead and may compel such interpleader.~~ The bailee may assert an interpleader, either in defending an action for nondelivery of the goods, or by original action, whichever is appropriate.

Section 57. Subsection (7) is added to section 678.1031, Florida Statutes, to read:

678.1031 Rules for determining whether certain obligations and interests are securities or financial assets.—

(7) A document of title is not a financial asset unless s. 678.1021(1)(i)2. applies.

Section 58. Subsection (2) of section 679.1021, Florida Statutes, is amended to read:

679.1021 Definitions and index of definitions.—

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

“Applicant” s. 675.103.

“Beneficiary” s. 675.103.

“Broker” s. 678.1021.

“Certificated security” s. 678.1021.

“Check” s. 673.1041.

“Clearing corporation” s. 678.1021.

“Contract for sale” s. 672.106.

“Control” s. 677.106.

“Customer” s. 674.104.

“Entitlement holder” s. 678.1021.

“Financial asset” s. 678.1021.

“Holder in due course” s. 673.3021.

“Issuer” (with respect to a letter of credit or letter-of-credit right) s. 675.103.

“Issuer” (with respect to a security) s. 678.2011.

“Issuer” (with respect to documents of title) s. 677.102.

“Lease” s. 680.1031.

“Lease agreement” s. 680.1031.

“Lease contract” s. 680.1031.

- “Leasehold interest” s. 680.1031.
- “Lessee” s. 680.1031.
- “Lessee in ordinary course of business” s. 680.1031.
- “Lessor” s. 680.1031.
- “Lessor’s residual interest” s. 680.1031.
- “Letter of credit” s. 675.103.
- “Merchant” s. 672.104.
- “Negotiable instrument” s. 673.1041.
- “Nominated person” s. 675.103.
- “Note” s. 673.1041.
- “Proceeds of a letter of credit” s. 675.114.
- “Prove” s. 673.1031.
- “Sale” s. 672.106.
- “Securities account” s. 678.5011.
- “Securities intermediary” s. 678.1021.
- “Security” s. 678.1021.
- “Security certificate” s. 678.1021.
- “Security entitlement” s. 678.1021.
- “Uncertificated security” s. 678.1021.

Section 59. Subsection (2) of section 679.2031, Florida Statutes, is amended to read:

679.2031 Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites.—

(2) Except as otherwise provided in subsections (3) through (10), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

- (a) Value has been given;
- (b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(c) One of the following conditions is met:

- 1. The debtor has authenticated 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;
- 2. The collateral is not a certificated security and is in the possession of the secured party under s. 679.3131 pursuant to the debtor's security agreement;
- 3. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under s. 678.3011 pursuant to the debtor's security agreement; or
- 4. The collateral is deposit accounts, electronic chattel paper, investment property, ~~or~~ letter-of-credit rights, or electronic documents, and the secured party has control under s. 677.106, s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071 pursuant to the debtor's security agreement.

Section 60. Subsection (3) of section 679.2071, Florida Statutes, is amended to read:

679.2071 Rights and duties of secured party having possession or control of collateral.—

(3) Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under s. 677.106, s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071:

- (a) May hold as additional security any proceeds, except money or funds, received from the collateral;
- (b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and
- (c) May create a security interest in the collateral.

Section 61. Subsection (2) of section 679.2081, Florida Statutes, is amended to read:

679.2081 Additional duties of secured party having control of collateral.

- (2) Within 10 days after receiving an authenticated demand by the debtor:
 - (a) A secured party having control of a deposit account under s. 679.1041(1)(b) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(b) A secured party having control of a deposit account under s. 679.1041(1)(c) shall:

- 1. Pay the debtor the balance on deposit in the deposit account; or
- 2. Transfer the balance on deposit into a deposit account in the debtor's name;

(c) A secured party, other than a buyer, having control of electronic chattel paper under s. 679.1051 shall:

- 1. Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;
- 2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and
- 3. Take appropriate action to enable the debtor or the debtor's designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(d) A secured party having control of investment property under s. 678.1061(4)(b) or s. 679.1061(2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated 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; and

(e) A secured party having control of a letter-of-credit right under s. 679.1071 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; ~~and~~.

(f) A secured party having control of an electronic document shall:

- 1. Give control of the electronic document to the debtor or its designated custodian;
- 2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply

with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

3. Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authenticated copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.

Section 62. Subsection (3) of section 679.3011, Florida Statutes, is amended to read:

679.3011 Law governing perfection and priority of security interests.— Except as otherwise provided in ss. 679.1091, 679.3031, 679.3041, 679.3051, and 679.3061, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(3) Except as otherwise provided in subsections (4) and (5), while tangible negotiable documents, goods, instruments, money, or tangible chattel paper 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 63. Subsection (2) of section 679.3101, Florida Statutes, is amended to read:

679.3101 When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.—

(2) The filing of a financing statement is not necessary to perfect a security interest:

- (a) That is perfected under s. 679.3081(4), (5), (6), or (7);
- (b) That is perfected under s. 679.3091 when it attaches;
- (c) In property subject to a statute, regulation, or treaty described in s. 679.3111(1);
- (d) In goods in possession of a bailee which is perfected under s. 679.3121(4)(a) or (b);
- (e) In certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under s. 679.3121(5), (6), or (7);

- (f) In collateral in the secured party's possession under s. 679.3131;
- (g) In a certificated security which is perfected by delivery of the security certificate to the secured party under s. 679.3131;
- (h) In deposit accounts, electronic chattel paper, electronic documents, investment property, or letter-of-credit rights which is perfected by control under s. 679.3141;
- (i) In proceeds which is perfected under s. 679.3151; or
- (j) That is perfected under s. 679.3161.

Section 64. Subsection (5) of section 679.3121, Florida Statutes, is amended to read:

679.3121 Perfection of security interests in chattel paper, deposit accounts, 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.—

(5) 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 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

Section 65. Subsection (1) of section 679.3131, Florida Statutes, is amended to read:

679.3131 When possession by or delivery to secured party perfects security interest without filing.—

(1) Except as otherwise provided in subsection (2), a secured party may perfect a security interest in tangible negotiable documents, goods, instruments, money, or tangible chattel paper 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 s. 678.3011.

Section 66. Subsections (1) and (2) of section 679.3141, Florida Statutes, are amended to read:

679.3141 Perfection by control.—

(1) A security interest in investment property, deposit accounts, letter-of-credit rights, ~~or~~ electronic chattel paper, or electronic documents may be perfected by control of the collateral under s. 677.106, s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071.

(2) A security interest in deposit accounts, electronic chattel paper, ~~or~~ letter-of-credit rights, or electronic documents is perfected by control under s. 677.106, s. 679.1041, s. 679.1051, or s. 679.1071 when the secured party

obtains control and remains perfected by control only while the secured party retains control.

Section 67. Subsections (2) and (4) of section 679.3171, Florida Statutes, are amended to read:

679.3171 Interests that take priority over or take free of security interest or agricultural lien.—

(2) Except as otherwise provided in subsection (5), a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, 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.

(4) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, electronic documents, general intangibles, or investment property other than 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 68. Subsection (2) of section 679.338, Florida Statutes, is amended to read:

679.338 Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.—If a security interest or agricultural lien is perfected by a filed financing statement providing information described in s. 679.516(2)(d) which is incorrect at the time the financing statement is filed:

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, tangible documents, goods, instruments, or a security certificate, receives delivery of the collateral.

Section 69. Paragraphs (a) and (o) of subsection (1) of section 680.1031, Florida Statutes, are amended to read:

680.1031 Definitions and index of definitions.—

(1) In this chapter, unless the context otherwise requires:

(a) “Buyer in ordinary course of business” means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. Buying may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring ~~receiving~~ goods or documents of title under a preexisting

contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

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

Section 70. Subsection (2) of section 680.514, Florida Statutes, is amended to read:

680.514 Waiver of lessee’s objections.—

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

Section 71. Subsection (2) of section 680.526, Florida Statutes, is amended to read:

680.526 Lessor’s stoppage of delivery in transit or otherwise.—

(2) In pursuing her or his remedies under subsection (1), the lessor may stop delivery until:

(a) Receipt of the goods by the lessee;

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

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

Section 72. This act shall take effect July 1, 2010.

Approved by the Governor May 27, 2010.

Filed in Office Secretary of State May 27, 2010.