

SENATE BILL NO. 474—COMMITTEE ON JUDICIARY

MARCH 23, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions of Uniform Commercial Code governing secured transactions. (BDR 8-453)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to commercial transactions; revising the provisions of the Uniform Commercial Code governing secured transactions; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 104 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 1. *In this section, “pre-effective-date financing statement” means a*
4 *financing statement filed before July 1, 2001.*
5 2. *A person may add or delete collateral covered by, continue or*
6 *terminate the effectiveness of, or otherwise amend the information*
7 *provided in, a pre-effective-date financing statement pursuant to the law*
8 *of the jurisdiction governing perfection as provided in part 3. The*
9 *effectiveness of a pre-effective-date financing statement also may be*
10 *terminated in accordance with the law of the jurisdiction in which the*
11 *financing statement is filed.*
12 3. *Except as otherwise provided in subsection 4, if the law of this*
13 *state governs perfection of a security interest, the information in a pre-*
14 *effective-date financing statement may be amended on or after July 1,*
15 *2001, if:*
16 (a) *The pre-effective-date financing statement and an amendment are*
17 *filed in the office specified in NRS 104.9501;*
18 (b) *An amendment is filed in the office specified in NRS 104.9501*
19 *concurrently with, or after the filing in that office of, an initial financing*
20 *statement that satisfies the requirements of subsection 3 of NRS*
21 *104.9706; or*



1 (c) *An initial financing statement that provides the information as*
2 *amended and satisfies the requirements of subsection 3 of NRS 104.9706*
3 *is filed in the office specified in NRS 104.9501.*

4 4. *If the law of this state governs perfection of a security interest, the*
5 *effectiveness of a pre-effective-date financing statement may be*
6 *continued only under subsections 4 and 6 of NRS 104.9705 or 104.9706.*

7 5. *Whether or not the law of this state governs perfection of a*
8 *security interest, the effectiveness of a pre-effective-date financing*
9 *statement filed in this state may be terminated on or after July 1, 2001, by*
10 *filing a termination statement in the office in which the pre-effective-date*
11 *financing statement is filed, unless an initial financing statement that*
12 *satisfies the requirements of subsection 3 of NRS 104.9706 has been filed*
13 *in the office specified by the law of the jurisdiction governing perfection*
14 *as provided in part 3.*

15 **Sec. 2.** NRS 104.1105 is hereby amended to read as follows:

16 104.1105 1. Except as otherwise provided in this section, when a
17 transaction bears a reasonable relation to this state and also to another state
18 or nation, the parties may agree that the law of this state or of such other
19 state or nation governs their rights and duties. Failing such agreement, this
20 chapter applies to transactions bearing an appropriate relation to this state.

21 2. Where one of the following provisions of this chapter specifies the
22 applicable law, that provision governs and a contrary agreement is
23 effective only to the extent permitted by the law (including the conflict of
24 laws rules) so specified:

25 Rights of creditors against sold goods. NRS 104.2402.

26 Applicability of the article on leases. NRS 104A.2105 and
27 104A.2106.

28 Applicability of the article on bank deposits and collections. NRS
29 104.4102.

30 Letters of credit. NRS 104.5116.

31 Applicability of the article on investment securities. NRS 104.8110.

32 Law governing perfection, the effect of perfection or nonperfection
33 and the priority of security interests ~~+~~ *and agricultural liens.* NRS
34 104.9301 to 104.9307, inclusive.

35 Governing law in the article on funds transfers. NRS 104A.4507.

36 **Sec. 3.** NRS 104.2502 is hereby amended to read as follows:

37 104.2502 1. Subject to ~~subsection 2~~ *subsections 2 and 3*, and even
38 though the goods have not been shipped, a buyer who has paid a part or all
39 of the price of goods in which he has a special property under the
40 provisions of the immediately preceding section may on making and
41 keeping good a tender of any unpaid portion of their price recover them
42 from the seller if:

43 (a) In the case of goods bought for personal, family or household
44 purposes, the seller repudiates or fails to deliver as required by the
45 contract; or

46 (b) In all cases, the seller becomes insolvent within 10 days after receipt
47 of the first installment on their price.



1 2. *The right of the buyer to recover the goods under subsection 1*
2 *vests upon acquisition of a special property even if the seller has not then*
3 *repudiated or failed to deliver.*

4 3. If the identification creating his special property has been made by
5 the buyer he acquires the right to recover the goods only if they conform to
6 the contract for sale.

7 **Sec. 4.** NRS 104.9102 is hereby amended to read as follows:
8 104.9102 1. In this article:

9 (a) "Accession" means goods that are physically united with other
10 goods in such a manner that the identity of the original goods is not lost.

11 (b) "Account," except as used in "account for," means a right to
12 payment of a monetary obligation, whether or not earned by performance,
13 for property that has been or is to be sold, leased, licensed, assigned, or
14 otherwise disposed of; for services rendered or to be rendered; for a policy
15 of insurance issued or to be issued; for a secondary obligation incurred or
16 to be incurred; for energy provided or to be provided; for the use or hire of
17 a vessel under a charter or other contract; arising out of the use of a credit
18 or charge card or information contained on or for use with the card; or as
19 winnings in a lottery or other game of chance operated or sponsored by a
20 state, governmental unit of a state, or person licensed or authorized to
21 operate the game by a state or governmental unit of a state. The term
22 includes health-care-insurance receivables. The term does not include
23 rights to payment evidenced by chattel paper or an instrument; commercial
24 tort claims; deposit accounts; investment property; letter-of-credit rights or
25 letters of credit; or rights to payment for money or funds advanced or sold,
26 other than rights arising out of the use of a credit or charge card or
27 information contained on or for use with the card.

28 (c) "Account debtor" means a person obligated on an account, chattel
29 paper or general intangible. The term does not include persons obligated to
30 pay a negotiable instrument, even if the instrument constitutes part of
31 chattel paper.

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

33 (1) Authenticated by a secured party;

34 (2) Indicating the aggregate unpaid secured obligations as of a date
35 not more than 35 days earlier or 35 days later than the date of the record;
36 and

37 (3) Identifying the components of the obligations in reasonable detail.

38 (e) "Agricultural lien" means an interest, other than a security interest,
39 in farm products:

40 (1) Which secures payment or performance of an obligation for:

41 (I) Goods or services furnished in connection with a debtor's
42 farming operation; or

43 (II) Rent on real property leased by a debtor in connection with its
44 farming operation;

45 (2) Which is created by statute in favor of a person that:

46 (I) In the ordinary course of its business furnished goods or
47 services to a debtor in connection with his farming operation; or

48 (II) Leased real property to a debtor in connection with his farming
49 operation; and



- 1 (3) Whose effectiveness does not depend on the person's possession
2 of the personal property.
- 3 (f) "As-extracted collateral" means:
- 4 (1) Oil, gas or other minerals that are subject to a security interest
5 that:
- 6 (I) Is created by a debtor having an interest in the minerals before
7 extraction; and
- 8 (II) Attaches to the minerals as extracted; or
- 9 (2) Accounts arising out of the sale at the wellhead or minehead of
10 oil, gas or other minerals in which the debtor had an interest before
11 extraction.
- 12 (g) "Authenticate" means:
- 13 (1) To sign; or
- 14 (2) To execute or otherwise adopt a symbol, or encrypt or similarly
15 process a record in whole or in part, with the present intent of the
16 authenticating person to identify himself and adopt or accept a record.
- 17 (h) "Bank" means an organization that is engaged in the business of
18 banking. The term includes savings banks, savings and loan associations,
19 credit unions and trust companies.
- 20 (i) "Cash proceeds" means proceeds that are money, checks, deposit
21 accounts or the like.
- 22 (j) "Certificate of title" means a certificate of title with respect to which
23 a statute provides for the security interest in question to be indicated on the
24 certificate as a condition or result of the security interest's obtaining
25 priority over the rights of a lien creditor with respect to the collateral.
- 26 (k) "Chattel paper" means a record or records that evidence both a
27 monetary obligation and a security interest in or a lease of specific goods
28 or of specific goods and software used in the goods ~~H~~, *or a security*
29 *interest in or a lease of specific goods and a license of software used in*
30 *the goods*. The term does not include charters or other contracts involving
31 the use or hire of a vessel ~~H~~, *or records that evidence a right to payment*
32 *arising out of the use of a credit or charge card or information contained*
33 *on or for use with the card*. If a transaction is evidenced ~~both by a~~
34 ~~security agreement or lease and~~ *by records that include* an instrument or
35 series of instruments, the group of records taken together constitutes chattel
36 paper. *As used in this paragraph, "monetary obligation" means a*
37 *monetary obligation secured by the goods or owed under a lease of the*
38 *goods and includes a monetary obligation with respect to software used*
39 *in the goods*.
- 40 (l) "Collateral" means the property subject to a security interest or
41 agricultural lien. The term includes:
- 42 (1) Proceeds to which a security interest attaches;
- 43 (2) Accounts, chattel paper, payment intangibles and promissory
44 notes that have been sold; and
- 45 (3) Goods that are the subject of a consignment.
- 46 (m) "Commercial tort claim" means a claim arising in tort with respect
47 to which:
- 48 (1) The claimant is an organization; or
- 49 (2) The claimant is a natural person and the claim:



- 1 (I) Arose in the course of his business or profession; and
2 (II) Does not include damages arising out of personal injury to or
3 the death of a natural person.
- 4 (n) “Commodity account” means an account maintained by a
5 commodity intermediary in which a commodity contract is carried for a
6 commodity customer.
- 7 (o) “Commodity contract” means a commodity futures contract, an
8 option on a commodity futures contract, a commodity option or another
9 contract if the contract or option is:
- 10 (1) Traded on or subject to the rules of a board of trade that has been
11 designated as a contract market for such a contract pursuant to federal
12 commodities laws; or
- 13 (2) Traded on a foreign commodity board of trade, exchange or
14 market, and is carried on the books of a commodity intermediary for a
15 commodity customer.
- 16 (p) “Commodity customer” means a person for which a commodity
17 intermediary carries a commodity contract on its books.
- 18 (q) “Commodity intermediary” means a person that:
- 19 (1) Is registered as a futures commission merchant under federal
20 commodities law; or
- 21 (2) In the ordinary course of its business provides clearance or
22 settlement services for a board of trade that has been designated as a
23 contract market pursuant to federal commodities law.
- 24 (r) “Communicate” means:
- 25 (1) To send a written or other tangible record;
- 26 (2) To transmit a record by any means agreed upon by the persons
27 sending and receiving the record; or
- 28 (3) In the case of transmission of a record to or by a filing office, to
29 transmit a record by any means prescribed by filing-office rule.
- 30 (s) “Consignee” means a merchant to which goods are delivered in a
31 consignment.
- 32 (t) “Consignment” means a transaction, regardless of its form, in which
33 a person delivers goods to a merchant for the purpose of sale and:
- 34 (1) The merchant:
- 35 (I) Deals in goods of that kind under a name other than the name of
36 the person making delivery;
- 37 (II) Is not an auctioneer; and
- 38 (III) Is not generally known by its creditors to be substantially
39 engaged in selling the goods of others;
- 40 (2) With respect to each delivery, the aggregate value of the goods is
41 \$1,000 or more at the time of delivery;
- 42 (3) The goods are not consumer goods immediately before delivery;
43 and
- 44 (4) The transaction does not create a security interest that secures an
45 obligation.
- 46 (u) “Consignor” means a person that delivers goods to a consignee in a
47 consignment.
- 48 (v) “Consumer debtor” means a debtor in a consumer transaction.



- 1 (w) “Consumer goods” means goods that are used or bought for use
2 primarily for personal, family or household purposes.
- 3 (x) “Consumer-goods transaction” means a consumer transaction to the
4 extent that:
- 5 (1) A natural person incurs an obligation primarily for personal,
6 family or household purposes; and
- 7 (2) A security interest in consumer goods or in consumer goods and
8 software that is held or acquired primarily for personal, family or
9 household purposes secures the obligation.
- 10 (y) “Consumer obligor” means an obligor who is a natural person and
11 who incurred the obligation as part of a transaction entered into primarily
12 for personal, family or household purposes.
- 13 (z) “Consumer transaction” means a transaction to the extent that a
14 natural person incurs an obligation primarily for personal, family or
15 household purposes; a security interest secures the obligation; and the
16 collateral is held or acquired primarily for personal, family or household
17 purposes. The term includes consumer-goods transactions.
- 18 (aa) “Continuation statement” means a change of a financing statement
19 which:
- 20 (1) Identifies, by its file number, the initial financing statement to
21 which it relates; and
- 22 (2) Indicates that it is a continuation statement for, or that it is filed to
23 continue the effectiveness of, the identified financing statement.
- 24 (bb) “Debtor” means:
- 25 (1) A person having an interest, other than a security interest or other
26 lien, in the collateral, whether or not he is an obligor;
- 27 (2) A seller of accounts, chattel paper, payment intangibles or
28 promissory notes; or
- 29 (3) A consignee.
- 30 (cc) “Deposit account” means a demand, time, savings, passbook or
31 similar account maintained with a bank. The term does not include
32 investment property or accounts evidenced by an instrument.
- 33 (dd) “Document” means a document of title or a receipt of the type
34 described in subsection 2 of NRS 104.7201.
- 35 (ee) “Electronic chattel paper” means chattel paper evidenced by a
36 record or records consisting of information stored in an electronic medium.
- 37 (ff) “Encumbrance” means a right, other than an ownership interest, in
38 real property. The term includes mortgages and other liens on real
39 property.
- 40 (gg) “Equipment” means goods other than inventory, farm products or
41 consumer goods.
- 42 (hh) “Farm products” means goods, other than standing timber, with
43 respect to which the debtor is engaged in a farming operation and which
44 are:
- 45 (1) Crops grown, growing or to be grown, including:
- 46 (I) Crops produced on trees, vines and bushes; and
- 47 (II) Aquatic goods produced in aquacultural operations;
- 48 (2) Livestock, born or unborn, including aquatic goods produced in
49 aquacultural operations;



- 1 (3) Supplies used or produced in a farming operation; or
2 (4) Products of crops or livestock in their unmanufactured states.
3 (ii) "Farming operation" means raising, cultivating, propagating,
4 fattening, grazing, or any other farming, livestock, or aquacultural
5 operation.
6 (jj) "File number" means the number assigned to an initial financing
7 statement pursuant to subsection 1 of NRS 104.9519.
8 (kk) "Filing office" means an office designated in NRS 104.9501 as the
9 place to file a financing statement.
10 (ll) "Filing-office rule" means a rule adopted pursuant to NRS
11 104.9526.
12 (mm) "Financing statement" means a record or records composed of an
13 initial financing statement and any filed record relating to the initial
14 financing statement.
15 (nn) "Fixture filing" means the filing of a financing statement covering
16 goods that are or are to become fixtures and satisfying subsections 1 and 2
17 of NRS 104.9502. The term includes the filing of a financing statement
18 covering goods of a transmitting utility which are or are to become
19 fixtures.
20 (oo) "Fixtures" means goods that have become so related to particular
21 real property that an interest in them arises under real property law.
22 (pp) "General intangible" means any personal property, including things
23 in action, other than accounts, chattel paper, commercial tort claims,
24 deposit accounts, documents, goods, instruments, investment property,
25 letter-of-credit rights, letters of credit, money, and oil, gas or other
26 minerals before extraction. The term includes payment intangibles and
27 software.
28 (qq) "Good faith" means honesty in fact and the observance of
29 reasonable commercial standards of fair dealing.
30 (rr) "Goods" means all things that are movable when a security interest
31 attaches. The term includes fixtures; standing timber that is to be cut and
32 removed under a conveyance or contract for sale; the unborn young of
33 animals; crops grown, growing, or to be grown, even if the crops are
34 produced on trees, vines, or bushes; and manufactured homes. The term
35 also includes a computer program embedded in goods and any supporting
36 information provided in connection with a transaction relating to the
37 program if the program is associated with the goods in such a manner that
38 it customarily is considered part of the goods, or by becoming the owner of
39 the goods, a person acquires a right to use the program in connection with
40 the goods. The term does not include a computer program embedded in
41 goods that consist solely of the medium in which the program is embedded.
42 The term also does not include accounts, chattel paper, commercial tort
43 claims, deposit accounts, documents, general intangibles, instruments,
44 investment property, letter-of-credit rights, letters of credit, money, or oil,
45 gas or other minerals before extraction.
46 (ss) "Governmental unit" means a subdivision, agency, department,
47 county, parish, municipality, or other unit of the government of the United
48 States, a state, or a foreign country. The term includes an organization
49 having a separate corporate existence if the organization is eligible to issue



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1 debt on which interest is exempt from income taxation under the laws of
2 the United States.

3 (tt) “Health-care-insurance receivable” means an interest in or claim
4 under a policy of insurance which is a right to payment of a monetary
5 obligation for health-care goods or services provided.

6 (uu) “Instrument” means a negotiable instrument or any other writing
7 that evidences a right to the payment of a monetary obligation, is not itself
8 a security agreement or lease, and is of a type that in ordinary course of
9 business is transferred by delivery with any necessary endorsement or
10 assignment. The term does not include investment property, letters of credit
11 or writings that evidence a right to payment arising out of the use of a
12 credit or charge card or information contained on or for use with the card.

13 (vv) “Inventory” means goods, other than farm products, which:

14 (1) Are leased by a person as lessor;
15 (2) Are held by a person for sale or lease or to be furnished under a
16 contract of service;
17 (3) Are furnished by a person under a contract of service; or
18 (4) Consist of raw materials, work in process, or materials used or
19 consumed in a business.

20 (ww) “Investment property” means a security, whether certificated or
21 uncertificated, security entitlement, securities account, commodity
22 contract, or commodity account.

23 (xx) “Jurisdiction of organization,” with respect to a registered
24 organization, means the jurisdiction under whose law the organization is
25 organized.

26 (yy) “Letter-of-credit right” means a right to payment or performance
27 under a letter of credit, whether or not the beneficiary has demanded or is
28 at the time entitled to demand payment or performance. The term does not
29 include the right of a beneficiary to demand payment or performance under
30 a letter of credit.

31 (zz) “Lien creditor” means:

32 (1) A creditor that has acquired a lien on the property involved by
33 attachment, levy or the like;
34 (2) An assignee for benefit of creditors from the time of assignment;
35 (3) A trustee in bankruptcy from the date of the filing of the petition;
36 or
37 (4) A receiver in equity from the time of appointment.

38 (aaa) “Manufactured home” means a structure, transportable in one or
39 more sections, which in the traveling mode, is 8 feet or more in body width
40 or 40 feet or more in body length, or, when erected on site, is 320 or more
41 square feet, and which is built on a permanent chassis and designed to be
42 used as a dwelling with or without a permanent foundation when connected
43 to the required utilities, and includes the plumbing, heating, air-
44 conditioning and electrical systems contained therein. The term includes
45 any structure that meets all of the requirements of this paragraph except the
46 size requirements and with respect to which the manufacturer voluntarily
47 files a certification required by the United States Secretary of Housing and
48 Urban Development and complies with the standards established under
49 Title 42 of the United States Code.



- 1 (bbb) "Manufactured-home transaction" means a secured transaction:
2 (1) That creates a purchase-money security interest in a manufactured
3 home, other than a manufactured home held as inventory; or
4 (2) In which a manufactured home, other than a manufactured home
5 held as inventory, is the primary collateral.
- 6 (ccc) "Mortgage" means a consensual interest in real property,
7 including fixtures, which is created by a mortgage, deed of trust, or similar
8 transaction.
- 9 (ddd) "New debtor" means a person that becomes bound as debtor
10 under subsection 4 of NRS 104.9203 by a security agreement previously
11 entered into by another person.
- 12 (eee) "New value" means money; money's worth in property, services
13 or new credit; or release by a transferee of an interest in property
14 previously transferred to the transferee. The term does not include an
15 obligation substituted for another obligation.
- 16 (fff) "Noncash proceeds" means proceeds other than cash proceeds.
- 17 (ggg) "Obligor" means a person that, with respect to an obligation
18 secured by a security interest in or an agricultural lien on the collateral,
19 owes payment or other performance of the obligation, has provided
20 property other than the collateral to secure payment or other performance
21 of the obligation, or is otherwise accountable in whole or in part for
22 payment or other performance of the obligation. The term does not include
23 an issuer or a nominated person under a letter of credit.
- 24 (hhh) "Original debtor" means , *except as used in subsection 3 of NRS*
25 *104.9310*, a person that, as debtor, entered into a security agreement to
26 which a new debtor has become bound under subsection 4 of NRS
27 104.9203.
- 28 (iii) "Payment intangible" means a general intangible under which the
29 account debtor's principal obligation is a monetary obligation.
- 30 (jjj) "Person related to," with respect to a natural person, means:
31 (1) His spouse;
32 (2) His brother, brother-in-law, sister or sister-in-law;
33 (3) His or his spouse's ancestor or lineal descendant; or
34 (4) Any other relative, by blood or marriage, of the person or his
35 spouse who shares the same home with him.
- 36 (kkk) "Person related to," with respect to an organization, means:
37 (1) A person directly or indirectly controlling, controlled by or under
38 common control with the organization;
39 (2) An officer or director of, or a person performing similar functions
40 with respect to, the organization;
41 (3) An officer or director of, or a person performing similar functions
42 with respect to, a person described in subparagraph (1);
43 (4) The spouse of a natural person described in subparagraph (1), (2)
44 or (3); or
45 (5) A person who is related by blood or marriage to a person
46 described in subparagraph (1), (2), (3) or (4) and shares the same home
47 with that person.
- 48 (lll) "Proceeds" means , *except as used in subsection 2 of NRS*
49 *104.9609*, the following property:



- 1 (1) Whatever is acquired upon the sale, lease, license, exchange or
2 other disposition of collateral;
3 (2) Whatever is collected on, or distributed on account of, collateral;
4 (3) Rights arising out of collateral;
5 (4) To the extent of the value of collateral, claims arising out of the
6 loss, nonconformity, or interference with the use of, defects or
7 infringement of rights in, or damage to, the collateral; and
8 (5) To the extent of the value of collateral and to the extent payable to
9 the debtor or the secured party, insurance payable by reason of the loss or
10 nonconformity of, defects or infringement of rights in, or damage to, the
11 collateral.
- 12 (mmm) “Promissory note” means an instrument that evidences a
13 promise to pay a monetary obligation, does not evidence an order to pay,
14 and does not contain an acknowledgment by a bank that the bank has
15 received for deposit a sum of money or funds.
- 16 (nnn) “Proposal” means a record authenticated by a secured party which
17 includes the terms on which the secured party is willing to accept collateral
18 in full or partial satisfaction of the obligation it secures pursuant to NRS
19 104.9620, 104.9621 and 104.9622.
- 20 (ooo) “Public-finance transaction” means a secured transaction in
21 connection with which:
22 (1) Debt securities are issued;
23 (2) All or a portion of the securities issued have an initial stated
24 maturity of at least 20 years; and
25 (3) The debtor, the obligor, the secured party, the account debtor or
26 other person obligated on collateral, the assignor or assignee of a secured
27 obligation, or the assignor or assignee of a security interest is a state or a
28 governmental unit of a state.
- 29 (ppp) “Pursuant to commitment,” with respect to an advance made or
30 other value given by a secured party, means pursuant to the secured party’s
31 obligation, whether or not a subsequent event of default or other event not
32 within the secured party’s control has relieved or may relieve the secured
33 party from its obligation.
- 34 (qqq) “Record,” except as used in “for record,” “of record,” “record or
35 legal title,” and “record owner,” means information that is inscribed on a
36 tangible medium or which is stored in an electronic or other medium and is
37 retrievable in perceivable form.
- 38 (rrr) “Registered organization” means an organization organized solely
39 under the law of a single state or the United States and as to which the state
40 or the United States must maintain a public record showing the
41 organization to have been organized.
- 42 (sss) “Secondary obligor” means an obligor to the extent that:
43 (1) The obligor’s obligation is secondary; or
44 (2) The obligor has a right of recourse with respect to an obligation
45 secured by collateral against the debtor, another obligor or property of
46 either.
- 47 (ttt) “Secured party” means:



- 1 (1) A person in whose favor a security interest is created or provided
2 for under a security agreement, whether or not any obligation to be secured
3 is outstanding;
- 4 (2) A person that holds an agricultural lien;
- 5 (3) A consignor;
- 6 (4) A person to which accounts, chattel paper, payment intangibles or
7 promissory notes have been sold;
- 8 (5) A trustee, indenture trustee, agent, collateral agent or other
9 representative in whose favor a security interest or agricultural lien is
10 created or provided for; or
- 11 (6) A person that holds a security interest arising under NRS
12 104.2401, 104.2505, subsection 3 of NRS 104.2711, NRS 104.4210,
13 104.5118 or subsection 5 of NRS 104A.2508.
- 14 (uuu) "Security agreement" means an agreement that creates or provides
15 for a security interest.
- 16 (vvv) "Send," in connection with a record or notification, means:
- 17 (1) To deposit in the mail, deliver for transmission or transmit by any
18 other usual means of communication, with postage or cost of transmission
19 provided for, addressed to any address reasonable under the circumstances;
20 or
- 21 (2) To cause the record or notification to be received within the time
22 that it would have been received if properly sent under subparagraph (1).
- 23 (www) "Software" means a computer program and any supporting
24 information provided in connection with a transaction relating to the
25 program. The term does not include a computer program that is contained
26 in goods unless the goods are a computer or computer peripheral.
- 27 (xxx) "State" means a state of the United States, the District of
28 Columbia, Puerto Rico, the United States Virgin Islands, or any territory or
29 insular possession subject to the jurisdiction of the United States.
- 30 (yyy) "Supporting obligation" means a letter-of-credit right or
31 secondary obligation that supports the payment or performance of an
32 account, chattel paper, document, general intangible, instrument or
33 investment property.
- 34 (zzz) "Tangible chattel paper" means chattel paper evidenced by a
35 record or records consisting of information that is inscribed on a tangible
36 medium.
- 37 (aaaa) "Termination statement" means a subsequent filing which:
- 38 (1) Identifies, by its file number, the initial financing statement to
39 which it relates; and
- 40 (2) Indicates either that it is a termination statement or that the
41 identified financing statement is no longer effective.
- 42 (bbbb) "Transmitting utility" means a person primarily engaged in the
43 business of:
- 44 (1) Operating a railroad, subway, street railway or trolley bus;
- 45 (2) Transmitting communications electrically, electromagnetically or
46 by light;
- 47 (3) Transmitting goods by pipeline;
- 48 (4) Providing sewerage; or



- 1 (5) Transmitting or producing and transmitting electricity, steam, gas
2 or water.
- 3 2. The following definitions in other articles apply to this article:
- 4 “Applicant.” NRS 104.5102.
5 “Beneficiary.” NRS 104.5102.
6 “Broker.” NRS 104.8102.
7 “Certificated security.” NRS 104.8102.
8 “Check.” NRS 104.3104.
9 “Clearing corporation.” NRS 104.8102.
10 “Contract for sale.” NRS 104.2106.
11 “Customer.” NRS 104.4104.
12 “Entitlement holder.” NRS 104.8102.
13 “Financial asset.” NRS 104.8102.
14 “Holder in due course.” NRS 104.3302.
15 “Issuer.” NRS 104.5102.
16 “Lease.” NRS 104A.2103.
17 “Lease agreement.” NRS 104A.2103.
18 “Lease contract.” NRS 104A.2103.
19 “Leasehold interest.” NRS 104A.2103.
20 “Lessee.” NRS 104A.2103.
21 “Lessee in ordinary course of business.” NRS 104A.2103.
22 “Lessor.” NRS 104A.2103.
23 “Lessor’s residual interest.” NRS 104A.2103.
24 “Letter of credit.” NRS 104.5102.
25 “Merchant.” NRS 104.2104.
26 “Negotiable instrument.” NRS 104.3104.
27 “Nominated person.” NRS 104.5102.
28 “Note.” NRS 104.3104.
29 “Proceeds of a letter of credit.” NRS 104.5114.
30 “Prove.” NRS 104.3103.
31 “Sale.” NRS 104.2106.
32 “Securities account.” NRS 104.8501.
33 “Securities intermediary.” NRS 104.8102.
34 “Security.” NRS 104.8102.
35 “Security certificate.” NRS 104.8102.
36 “Security entitlement.” NRS 104.8102.
37 “Uncertificated security.” NRS 104.8102.
- 38 3. Article 1 contains general definitions and principles of construction
39 and interpretation applicable throughout this article.
- 40 **Sec. 5.** NRS 104.9104 is hereby amended to read as follows:
41 104.9104 1. A secured party has control of a deposit account if:
42 (a) The secured party is the bank with which the deposit account is
43 maintained;
44 (b) The debtor, secured party and bank have agreed in an authenticated
45 record that the bank will comply with instructions originated by the
46 secured party directing disposition of the funds in the *deposit* account
47 without further consent by the debtor; or
48 (c) The secured party becomes the bank’s customer with respect to the
49 deposit account.



1 2. A secured party that has satisfied subsection 1 has control, even if
2 the debtor retains the right to direct the disposition of funds from the
3 deposit account.

4 **Sec. 6.** NRS 104.9210 is hereby amended to read as follows:

5 104.9210 1. In this section:

6 (a) “Request” means a record of a type described in paragraph (b), (c) or
7 (d).

8 (b) “Request for an accounting” means a record authenticated by a
9 debtor requesting that the recipient provide an accounting of the unpaid
10 obligations secured by collateral and reasonably identifying the transaction
11 or relationship that is the subject of the request.

12 (c) “Request regarding a list of collateral” means a record authenticated
13 by a debtor requesting that the recipient approve or correct a list of what
14 the debtor believes to be the collateral securing an obligation and
15 reasonably identifying the transaction or relationship that is the subject of
16 the request.

17 (d) “Request regarding a statement of account” means a record
18 authenticated by a debtor requesting that the recipient approve or correct a
19 statement indicating what the debtor believes to be the aggregate amount of
20 unpaid obligations secured by collateral as of a specified date and
21 reasonably identifying the transaction or relationship that is the subject of
22 the request.

23 2. Subject to subsections 3 to 6, inclusive, a secured party, other than a
24 buyer of accounts, chattel paper, payment intangibles, or promissory notes
25 or a consignor, shall comply with a request within 14 days after receipt:

26 (a) In the case of a request for an accounting, by authenticating and
27 sending to the debtor an accounting; and

28 (b) In the case of a request regarding a list of collateral or a request
29 regarding a statement of account, by authenticating and sending to the
30 debtor an approval or correction.

31 3. A secured party that claims a security interest in all of a particular
32 type of collateral owned by the debtor may comply with a request
33 regarding a list of collateral by sending to the debtor an authenticated
34 record including a statement to that effect within 14 days after receipt.

35 4. A person that receives a request regarding a list of collateral, claims
36 no interest in the collateral when it receives the request, and claimed an
37 interest in the collateral at an earlier time shall comply with the request
38 within 14 days after receipt by sending to the debtor an authenticated
39 record:

40 (a) Disclaiming any interest in the collateral; and

41 (b) If known to the recipient, providing the name and mailing address of
42 any assignee of or successor to the recipient’s ~~security~~ interest in the
43 collateral.

44 5. A person that receives a request for an accounting or a request
45 regarding a statement of account, claims no interest in the obligations when
46 it receives the request, and claimed an interest in the obligations at an
47 earlier time shall comply with the request within 14 days after receipt by
48 sending to the debtor an authenticated record:

49 (a) Disclaiming any interest in the obligations; and



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1 (b) If known to the recipient, providing the name and mailing address of
2 any assignee of or successor to the recipient's interest in the obligations.

3 6. A debtor is entitled without charge to one response to a request
4 under this section during any 6-month period. The secured party may
5 require payment of a charge not exceeding \$25 for each additional
6 response.

7 **Sec. 7.** NRS 104.9311 is hereby amended to read as follows:

8 104.9311 1. Except as otherwise provided in subsection 4, the filing
9 of a financing statement is not necessary or effective to perfect a security
10 interest in property subject to:

11 (a) A statute, regulation or treaty of the United States whose
12 requirements for a security interest's obtaining priority over the rights of a
13 lien creditor with respect to the property preempt subsection 1 of NRS
14 104.9310;

15 (b) Chapter 105 of NRS, NRS 482.423 to 482.431, inclusive, 488.1793
16 to 488.1827, inclusive, and 489.501 to 489.581, inclusive; or

17 (c) A certificate-of-title statute of another jurisdiction which provides
18 for a security interest to be indicated on the certificate as a condition or
19 result of the security interest's obtaining priority over the rights of a lien
20 creditor with respect to the property.

21 2. Compliance with the requirements of a statute, regulation or treaty
22 described in subsection 1 for obtaining priority over the rights of a lien
23 creditor is equivalent to the filing of a financing statement under this
24 article. Except as otherwise provided in subsection 4, NRS 104.9313 and
25 subsections 4 and 5 of NRS 104.9316 for goods covered by a certificate of
26 title, a security interest in property subject to a statute, regulation or treaty
27 described in subsection 1 may be perfected only by compliance with those
28 requirements, and a security interest so perfected remains perfected
29 notwithstanding a change in the use or transfer of possession of the
30 collateral.

31 3. Except as otherwise provided in subsection 4 and subsections 4 and
32 5 of NRS 104.9316, duration and renewal of perfection of a security
33 interest perfected by compliance with the requirements prescribed by a
34 statute, regulation or treaty described in subsection 1 are governed by the
35 statute, regulation or treaty. In other respects, the security interest is subject
36 to this article.

37 4. During any period in which collateral *subject to a statute specified*
38 *in paragraph (b) of subsection 1* is inventory held for sale or lease by a
39 person or leased by that person as lessor and that person is in the business
40 of selling ~~for leasing~~ goods of that kind, this section does not apply to a
41 security interest in that collateral created by that person. ~~as debtor.~~

42 **Sec. 8.** NRS 104.9317 is hereby amended to read as follows:

43 104.9317 1. ~~An unperfected~~ A security interest or agricultural lien
44 is subordinate to the rights of:

45 (a) A person entitled to priority under NRS 104.9322; and

46 (b) A person that becomes a lien creditor before the earlier of the time
47 ~~the~~ :

48 (1) *The* security interest or agricultural lien is perfected ; or



1 ***(2) One of the conditions specified in paragraph (c) of subsection 2***
2 ***of NRS 104.9203 is met and*** a financing statement covering the collateral
3 is filed.

4 2. Except as otherwise provided in subsection 5, a buyer, other than a
5 secured party, of chattel paper, documents, goods, instruments, or a
6 security certificate takes free of a security interest or agricultural lien if the
7 buyer gives value and receives delivery of the collateral without knowledge
8 of the security interest or agricultural lien and before it is perfected.

9 3. Except as otherwise provided in subsection 5, a lessee of goods
10 takes free of a security interest or agricultural lien if he gives value and
11 receives delivery of the collateral without knowledge of the security
12 interest or agricultural lien and before it is perfected.

13 4. A licensee of a general intangible or a buyer, other than a secured
14 party, of accounts, general intangibles or investment property other than a
15 certificated security takes free of a security interest if he gives value
16 without knowledge of the security interest and before it is perfected.

17 5. Except as otherwise provided in NRS 104.9320 and 104.9321, if a
18 person files a financing statement with respect to a purchase-money
19 security interest before or within 20 days after the debtor receives delivery
20 of the collateral, the security interest takes priority over the rights of a
21 buyer, lessee or lien creditor which arise between the time the security
22 interest attaches and the time of filing.

23 **Sec. 9.** NRS 104.9323 is hereby amended to read as follows:

24 104.9323 1. Except as otherwise provided in subsection 3, for
25 purposes of determining the priority of a perfected security interest under
26 subsection 1 of NRS 104.9322, perfection of the security interest dates
27 from the time an advance is made to the extent that the security interest
28 secures an advance that:

29 (a) Is made while the security interest is perfected only:

30 (1) Under NRS 104.9309 when it attaches; or

31 (2) Temporarily under subsection 5, 6 or 7 of NRS 104.9312; and

32 (b) Is not made pursuant to a commitment entered into before or while
33 the security interest is perfected by a method other than under NRS
34 104.9309 or subsection 5, 6 or 7 of NRS 104.9312.

35 2. Except as otherwise provided in subsection 3, a security interest is
36 subordinate to the rights of a person that becomes a lien creditor ~~while the~~
37 ~~security interest is perfected only~~ to the extent that ~~it secures advances~~
38 ***the security interest secures an advance*** made more than 45 days after he
39 becomes a lien creditor unless the advance is made:

40 (a) Without knowledge of the lien; or

41 (b) Pursuant to a commitment entered into without knowledge of the
42 lien.

43 3. Subsections 1 and 2 do not apply to a security interest held by a
44 secured party that is a buyer of accounts, chattel paper, payment
45 intangibles, or promissory notes or a consignor.

46 4. Except as otherwise provided in subsection 5, a buyer of goods
47 other than a buyer in the ordinary course of business takes free of a security
48 interest to the extent that it secures advances made after the earlier of:



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

3 (b) Forty-five days after the purchase.

4 5. Subsection 4 does not apply if the advance is made pursuant to a
5 commitment entered into without knowledge of the buyer's purchase and
6 before the expiration of the 45-day period.

7 6. Except as otherwise provided in subsection 7, a lessee of goods,
8 other than a lessee in ordinary course of business, takes the leasehold free
9 of a security interest to the extent that it secures advances made after the
10 earlier of:

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

12 (b) Forty-five days after the lease contract becomes enforceable.

13 7. Subsection 6 does not apply if the advance is made pursuant to a
14 commitment entered into without knowledge of the lease and before the
15 expiration of the 45-day period.

16 **Sec. 10.** NRS 104.9331 is hereby amended to read as follows:

17 104.9331 1. This article does not limit the rights of a holder in due
18 course of a negotiable instrument, a holder to which a negotiable document
19 of title has been duly negotiated, or a protected purchaser of a security.
20 These holders or purchasers take priority over an earlier security interest,
21 even if perfected, to the extent provided in articles 3, 7 and 8.

22 2. This article does not limit the rights of or impose liability on a
23 person to the extent that the person is protected against the assertion of ~~an~~
24 ~~adverse~~ a claim under article 8.

25 3. Filing under this article does not constitute notice of a claim or
26 defense to the holders, or purchasers, or persons described in subsections 1
27 and 2.

28 **Sec. 11.** NRS 104.9334 is hereby amended to read as follows:

29 104.9334 1. A security interest under this article may be created in
30 goods that are fixtures or may continue in goods that become fixtures. A
31 security interest does not exist under this article in ordinary building
32 materials incorporated into an improvement on land.

33 2. This article does not prevent creation of an encumbrance upon
34 fixtures under real property law.

35 3. In cases not governed by subsections 4 to 8, inclusive, a security
36 interest in fixtures is subordinate to a conflicting interest of an
37 encumbrancer or owner of the related real property other than the debtor.

38 4. Except as otherwise provided in subsection 8, a perfected security
39 interest in fixtures has priority over a conflicting interest of an
40 encumbrancer or owner of the real property if the debtor has an interest of
41 record in or is in possession of the real property and:

42 (a) The security interest is a purchase-money security interest;

43 (b) The interest of the encumbrancer or owner arises before the goods
44 become fixtures; and

45 (c) The security interest is perfected by a fixture filing before the goods
46 become fixtures or within 20 days thereafter.

47 5. A perfected security interest in fixtures has priority over a
48 conflicting interest of an encumbrancer or owner of the real property if:



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1 (a) The debtor has an interest of record in the real property or is in
2 possession of the real property and the security interest:

3 (1) Is perfected by a fixture filing before the interest of the
4 encumbrancer or owner is of record; and

5 (2) Has priority over any conflicting interest of a predecessor in title
6 of the encumbrancer or owner;

7 (b) Before the goods become fixtures, the security interest is perfected
8 by any method permitted by this article and the fixtures are readily
9 removable:

10 (1) Factory or office machines;

11 (2) Equipment that is not primarily used or leased for use in the
12 operation of the real property; or

13 (3) Replacements of domestic appliances that are consumer goods;

14 (c) The conflicting interest is a lien on the real property obtained by
15 legal or equitable proceedings after the security interest was perfected by
16 any method permitted by this article; or

17 (d) The security interest is:

18 (1) Created in a manufactured home in a
19 manufactured-home transaction; and

20 (2) Perfected pursuant to a statute described in
21 paragraph (b) of subsection 1 of NRS 104.9311.

22 6. A security interest in fixtures, whether or
23 not perfected, has priority over a conflicting interest of
24 an encumbrancer or owner of the real property if:

25 (a) The encumbrancer or owner has, in an
26 authenticated record, consented to the security
27 interest or disclaimed an interest in the goods as
28 fixtures; or

29 (b) The debtor has a right to remove the goods as against the
30 encumbrancer or owner.

31 7. The priority of the security interest under *paragraph*
32 *(b) of* subsection 6 continues for a reasonable time if the debtor's
33 right to remove the goods as against the encumbrancer or owner
34 terminates.

35 8. A mortgage is a construction mortgage to the extent
36 that it secures an obligation incurred for the construction of
37 an improvement on land, including the acquisition cost of the
38 land, if the recorded record so indicates. Except as otherwise
39 provided in subsections 5 and 6, a security interest in fixtures
40 is subordinate to a construction mortgage recorded before the
41 goods become fixtures if the goods become fixtures before
42 the completion of the construction. A mortgage has this
43 priority to the same extent as a construction mortgage to the
44 extent that it is given to refinance a construction mortgage.

45 9. A perfected security interest in crops
46 growing on real property has priority over a conflicting
47 interest of an encumbrancer or owner of the real property
48 if the debtor has an interest of record in or is in
49 possession of the real property.



1 **Sec. 12.** NRS 104.9336 is hereby amended to
2 read as follows:

3 104.9336 1. In this section, "commingled goods" means goods that
4 are physically united with other goods in such a manner that their identity
5 is lost in a product or mass.

6 2. A security interest does not exist in commingled goods as such.
7 However, a security interest may attach to a product or mass that results
8 when goods become commingled goods.

9 3. If collateral becomes commingled goods, a security interest attaches
10 to the product or mass.

11 4. If a security interest in collateral is perfected before the collateral
12 becomes commingled goods, the security interest that attaches to the
13 product or mass under subsection 3 is perfected.

14 5. Except as otherwise provided in subsection 6, the other provisions
15 of this part determine the priority of a security interest that attaches to the
16 product or mass under subsection 3.

17 6. If more than one security interest attaches to the product or mass
18 under subsection 3, the following rules determine priority:

19 (a) A security interest that is perfected under subsection 4 has priority
20 over a security interest that is unperfected at the time the collateral
21 becomes commingled goods.

22 (b) If more than one security interest is perfected under subsection 4,
23 the security interests rank equally in proportion to *the* value of the
24 collateral at the time it became commingled goods.

25 **Sec. 13.** NRS 104.9406 is hereby amended to read as follows:

26 104.9406 1. Subject to subsections 2 to 8, inclusive, an account
27 debtor on an account, chattel paper or a payment intangible may discharge
28 its obligation by paying the assignor until, but not after, the account debtor
29 receives a notification, authenticated by the assignor or the assignee, that
30 the amount due or to become due has been assigned and that payment is to
31 be made to the assignee. After receipt of the notification, the account
32 debtor may discharge its obligation by paying the assignee and may not
33 discharge the obligation by paying the assignor.

34 2. Subject to subsection 8, notification is ineffective under
35 subsection 1:

36 (a) If it does not reasonably identify the rights assigned;

37 (b) To the extent that an agreement between an account debtor and a
38 seller of a payment intangible limits the account debtor's duty to pay a
39 person other than the seller and the limitation is effective under law other
40 than this article; or

41 (c) At the option of an account debtor, if the notification notifies the
42 account debtor to make less than the full amount of any installment or
43 other periodic payment to the assignee, even if:

44 (1) Only a portion of the account, chattel paper or ~~general~~ *payment*
45 intangible has been assigned to that assignee;

46 (2) A portion has been assigned to another assignee; or

47 (3) The account debtor knows that the assignment to that assignee is
48 limited.



1 3. Subject to subsection 8, if requested by the account debtor, an
2 assignee shall seasonably furnish reasonable proof that the assignment has
3 been made. Unless the assignee complies, the account debtor may
4 discharge its obligation by paying the assignor, even if the account debtor
5 has received a notification under subsection 1.

6 4. Except as otherwise provided in subsection 5 and NRS 104.9407
7 and 104A.2303, and subject to subsection 8, a term in an agreement
8 between an account debtor and an assignor or in a promissory note is
9 ineffective to the extent that it:

10 (a) Prohibits, restricts or requires the consent of the account debtor or
11 person obligated on the promissory note to the assignment or transfer of, or
12 the creation, attachment, perfection or enforcement of a security interest in,
13 the account, chattel paper, payment intangible or promissory note; or

14 (b) Provides that the *assignment or transfer, or the* creation,
15 attachment, perfection or enforcement of the security interest may give rise
16 to a default, breach, right of recoupment, claim, defense, termination, right
17 of termination, or remedy under the account, chattel paper, payment
18 intangible or promissory note.

19 5. Subsection 4 does not apply to the sale of a payment intangible or
20 promissory note.

21 6. Subject to subsections 7 and 8, a rule of law, statute, or regulation,
22 that prohibits, restricts, or requires the consent of a government,
23 governmental body or official, or account debtor to the assignment or
24 transfer of, or creation of a security interest in, an account or chattel paper
25 is ineffective to the extent that the rule of law, statute or regulation:

26 (a) Prohibits, restricts, or requires the consent of the government,
27 governmental body or official, or account debtor to the assignment or
28 transfer of, or the creation, attachment, perfection, or enforcement of a
29 security interest in, the account or chattel paper; or

30 (b) Provides that the *assignment or transfer, or the* creation,
31 attachment, perfection, or enforcement of the security interest may give
32 rise to a default, breach, right of recoupment, claim, defense, termination,
33 right of termination, or remedy under the account or chattel paper.

34 7. Subject to subsection 8, an account debtor may not waive or vary its
35 option under paragraph (c) of subsection 2.

36 8. This section is subject to law other than this article which
37 establishes a different rule for an account debtor who is an individual and
38 who incurred the obligation primarily for personal, family or household
39 purposes.

40 9. This section does not apply to an assignment of a health-care-
41 insurance receivable.

42 **Sec. 14.** NRS 104.9407 is hereby amended to read as follows:

43 104.9407 1. Except as otherwise provided in subsection 2, a term in
44 a lease agreement is ineffective to the extent that it:

45 (a) Prohibits, restricts, or requires the consent of a party to the lease to
46 the *assignment or transfer, or the* creation, attachment, perfection, or
47 enforcement of a security interest in an interest of a party under the lease
48 contract or in the lessor's residual interest in the goods; or



1 (b) Provides that the *assignment or transfer, or the* creation,
2 attachment, perfection, or enforcement of the security interest may give
3 rise to a default, breach, right of recoupment, claim, defense, termination,
4 right of termination or remedy under the lease.

5 2. Except as otherwise provided in subsection 7 of NRS 104A.2303, a
6 term described in paragraph (b) of subsection 1 is effective to the extent
7 that there is:

8 (a) A transfer by the lessee of the lessee's right of possession or use of
9 the goods in violation of the term; or

10 (b) A delegation of a material performance of either party to the lease
11 contract in violation of the term.

12 3. The creation, attachment, perfection, or enforcement of a security
13 interest in the lessor's interest under the lease contract or the lessor's
14 residual interest in the goods is not a transfer that materially impairs the
15 lessee's prospect of obtaining return performance or materially changes the
16 duty of or materially increases the burden or risk imposed on the lessee
17 within the purview of subsection 4 of NRS 104A.2303 unless, and then
18 only to the extent that, enforcement results in a delegation of a material
19 performance of the lessor. Even in that event, the creation, attachment,
20 perfection and enforcement of the security interest remain effective.

21 **Sec. 15.** NRS 104.9408 is hereby amended to read as follows:

22 104.9408 1. Except as otherwise provided in subsection 2, a term in
23 a promissory note or in an agreement between an account debtor and a
24 debtor which relates to a health-care-insurance receivable or a general
25 intangible, including a contract, permit, license or franchise, and prohibits,
26 restricts or requires the consent of the person obligated on the promissory
27 note or the account debtor to, the assignment or transfer of, or creation,
28 attachment, or perfection of a security interest in, the promissory note,
29 health-care-insurance receivable or general intangible, is ineffective to the
30 extent that the term:

31 (a) Would impair the creation, attachment or perfection of a security
32 interest; or

33 (b) Provides that the *assignment or transfer, or the* creation, attachment
34 or perfection of the security interest may give rise to a default, breach, right
35 of recoupment, claim, defense, termination, right of termination or remedy
36 under the promissory note, health-care-insurance receivable or general
37 intangible.

38 2. Subsection 1 applies to a security interest in a payment intangible or
39 promissory note only if the security interest arises out of a sale of the
40 payment intangible or promissory note.

41 3. A rule of law, statute, or regulation that prohibits, restricts, or
42 requires the consent of a government, governmental body or official,
43 person obligated on a promissory note, or account debtor to the assignment
44 or transfer of, or creation of a security interest in, a promissory note,
45 health-care-insurance receivable or general intangible, including a contract,
46 permit, license or franchise between an account debtor and a debtor, is
47 ineffective to the extent that the rule of law, statute or regulation:

48 (a) Would impair the creation, attachment or perfection of a security
49 interest; or



1 (b) Provides that the *assignment or transfer, or the* creation, attachment
2 or perfection of the security interest may give rise to a default, breach, right
3 of recoupment, claim, defense, termination, right of termination or remedy
4 under the promissory note, health-care-insurance receivable or general
5 intangible.

6 4. To the extent that a term in a promissory note or in an agreement
7 between an account debtor and a debtor which relates to a health-care-
8 insurance receivable or general intangible or a rule of law, statute, or
9 regulation described in subsection 3 would be effective under law other
10 than this article but is ineffective under subsection 1 or 3, the creation,
11 attachment or perfection of a security interest in the promissory note,
12 health-care-insurance receivable or general intangible:

13 (a) Is not enforceable against the person obligated on the promissory
14 note or the account debtor;

15 (b) Does not impose a duty or obligation on the person obligated on the
16 promissory note or the account debtor;

17 (c) Does not require the person obligated on the promissory note or the
18 account debtor to recognize the security interest, pay or render
19 performance to the secured party or accept payment or performance from
20 the secured party;

21 (d) Does not entitle the secured party to use or assign the debtor's rights
22 under the promissory note, health-care-insurance receivable or general
23 intangible, including any related information or materials furnished to the
24 debtor in the transaction giving rise to the promissory note, health-care-
25 insurance receivable or general intangible;

26 (e) Does not entitle the secured party to use, assign, possess or have
27 access to any trade secrets or confidential information of the person
28 obligated on the promissory note or the account debtor; and

29 (f) Does not entitle the secured party to enforce the security interest in
30 the promissory note, health-care-insurance receivable or general intangible.

31 **Sec. 16.** NRS 104.9409 is hereby amended to read as follows:

32 104.9409 1. A term in a letter of credit or a rule of law, statute,
33 regulation, custom or practice applicable to the letter of credit which
34 prohibits, restricts or requires the consent of an applicant, issuer, or
35 nominated person to a beneficiary's assignment of or creation of a security
36 interest in a letter-of-credit right is ineffective to the extent that the term or
37 rule of law, statute, regulation, custom or practice:

38 (a) Would impair the creation, attachment or perfection of a security
39 interest in the letter-of-credit right; or

40 (b) Provides that the *assignment or the* creation, attachment or
41 perfection of the security interest may give rise to a default, breach, right of
42 recoupment, claim, defense, termination, right of termination or remedy
43 under the letter-of-credit right.

44 2. To the extent that a term in a letter of credit is ineffective under
45 subsection 1 but would be effective under law other than this article or a
46 custom or practice applicable to the letter of credit, to the transfer of a right
47 to draw or otherwise demand performance under the letter of credit, or to
48 the assignment of a right to proceeds of the letter of credit, the creation,
49 attachment or perfection of a security interest in the letter-of-credit right:



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1 (a) Is not enforceable against the applicant, issuer, nominated person or
2 transferee beneficiary;

3 (b) Imposes no duties or obligations on the applicant, issuer, nominated
4 person or transferee beneficiary; and

5 (c) Does not require the applicant, issuer, nominated person or
6 transferee beneficiary to recognize the security interest, pay or render
7 performance to the secured party or accept payment or other performance
8 from the secured party.

9 **Sec. 17.** NRS 104.9504 is hereby amended to read as follows:

10 104.9504 A financing statement sufficiently indicates the collateral
11 that it covers ~~only~~ if the financing statement provides:

12 1. A description of the collateral pursuant to NRS 104.9108; or

13 2. An indication that the financing statement covers all assets or all
14 personal property.

15 **Sec. 18.** NRS 104.9509 is hereby amended to read as follows:

16 104.9509 1. A person may file an initial financing statement,
17 amendment that adds collateral covered by a financing statement or
18 amendment that adds a debtor to a financing statement only if:

19 (a) The debtor authorizes the filing in an authenticated record; ~~or~~

20 (b) The person holds an agricultural lien that has become effective at the
21 time of filing and the financing statement covers only collateral in which
22 he holds an agricultural lien ~~or~~; *or*

23 *(c) Otherwise authorized by subsection 2 or 3.*

24 2. By authenticating or becoming bound as debtor by a security
25 agreement, a debtor or new debtor authorizes the filing of an initial
26 financing statement, and an amendment, covering:

27 (a) The collateral described in the security agreement; and

28 (b) Property that becomes collateral under paragraph (b) of subsection 1
29 of NRS 104.9315, whether or not the security agreement expressly covers
30 proceeds.

31 3. A person may file an amendment other than an amendment that
32 adds collateral covered by a financing statement or an amendment that
33 adds a debtor to a financing statement only if:

34 (a) The secured party of record authorizes the filing; or

35 (b) The change is a termination statement for a financing statement as to
36 which the secured party of record has failed to file or send a termination
37 statement as required by subsection 1 or 3 of NRS 104.9513.

38 4. If there is more than one secured party of record for a financing
39 statement, each secured party of record may authorize the filing of an
40 amendment under subsection 3.

41 **Sec. 19.** NRS 104.9513 is hereby amended to read as follows:

42 104.9513 1. A secured party shall cause the secured party of record
43 for a financing statement to file a termination statement for the financing
44 statement if the financing statement covers consumer goods and:

45 (a) There is no obligation secured by the collateral covered by the
46 financing statement and no commitment to make an advance, incur an
47 obligation or otherwise give value; or

48 (b) The debtor did not authorize the filing of the initial financing
49 statement.



- 1 2. To comply with subsection 1, a secured party shall cause the
2 secured party of record to file the termination statement:
- 3 (a) Within 1 month after there is no obligation secured by the collateral
4 covered by the financing statement and no commitment to make an
5 advance, incur an obligation or otherwise give value; or
6 (b) If earlier, within 20 days after the secured party receives an
7 authenticated demand from a debtor.
- 8 3. In cases not governed by subsection 1, within 20 days after a
9 secured party receives an authenticated demand from a debtor, the secured
10 party shall cause the secured party of record for a financing statement to
11 send to the debtor a termination statement for the financing statement or
12 file the termination statement in the filing office if:
- 13 (a) Except in the case of a financing statement covering accounts or
14 chattel paper that has been sold or goods that are the subject of a
15 consignment, there is no obligation secured by the collateral covered by the
16 financing statement and no commitment to make an advance, incur an
17 obligation or otherwise give value;
- 18 (b) The financing statement covers accounts or chattel paper that has
19 been sold but as to which the account debtor or other person obligated has
20 discharged its obligation;
- 21 (c) The financing statement covers goods that were the subject of a
22 consignment to the debtor but are not in the debtor's possession; or
23 (d) The debtor did not authorize the filing of the initial financing
24 statement.
- 25 4. Except as otherwise provided in NRS 104.9510, upon the filing of a
26 termination statement with the filing office ~~the~~ :
- 27 (a) *The* financing statement to which the termination statement relates
28 ceases to be effective.
- 29 (b) *For the purposes of subsection 7 of NRS 104.9519, subsection 1 of*
30 *NRS 104.9522 and subsection 3 of NRS 104.9523, a financing statement*
31 *that indicates that the debtor is a transmitting utility causes the*
32 *effectiveness of the financing statement to lapse.*
- 33 **Sec. 20.** NRS 104.9519 is hereby amended to read as follows:
- 34 104.9519 1. For each record filed in a filing office, the filing office
35 shall:
- 36 (a) Assign a unique number to the filed record;
- 37 (b) Create a record that bears the number assigned to the filed record
38 and the date and time of filing;
- 39 (c) Maintain the filed record for public inspection; and
- 40 (d) Index the filed record in accordance with subsections 3, 4 and 5.
- 41 2. Except as otherwise provided in subsection 9, a file number
42 assigned after January 1, 2002, may include a digit that:
- 43 (a) Is mathematically derived from or related to the other digits of the
44 file number; and
- 45 (b) Enables the filing office to detect whether a number communicated
46 as the file number includes a single-digit or transpositional error.
- 47 3. Except as otherwise provided in subsections 4 and 5, the filing
48 office shall:



1 (a) Index an initial financing statement according to the name of the
2 debtor and index all filed records relating to the initial financing statement
3 in a manner that associates with one another an initial financing statement
4 and all filed records relating to the initial financing statement; and
5 (b) Index a record that provides a name of a debtor which was not
6 previously provided in the financing statement to which the record relates
7 also according to the name that was not previously provided.
8 4. If a financing statement is filed as a fixture filing or covers as-
9 extracted collateral or timber to be cut, it must be filed for record and the
10 filing office shall index it:
11 (a) Under the names of the debtor and of each owner of record shown
12 on the financing statement as if they were the mortgagors under a mortgage
13 of the real property described; and
14 (b) To the extent that the law of this state provides for indexing of
15 mortgages under the name of the mortgagee, under the name of the secured
16 party as if the secured party were the mortgagee thereunder.
17 5. If a financing statement is filed as a fixture filing or covers as-
18 extracted collateral or timber to be cut, the filing office shall index an
19 assignment filed under subsection 1 of NRS 104.9514 or an amendment
20 filed under subsection 2 of that section:
21 (a) Under the name of the assignor as grantor; and
22 (b) To the extent that the law of this state provides for indexing the
23 assignment of a mortgage of real property under the name of the assignee,
24 under the name of the assignee.
25 6. The filing office shall maintain a capability:
26 (a) To retrieve a record by the name of the debtor and:
27 (1) If the filing office is described in paragraph (a) of subsection 1 of
28 NRS 104.9501, by the file number assigned to the initial financing
29 statement to which the record relates and the date and time that the record
30 was filed or recorded; or
31 (2) If the filing office is described in paragraph (b) of subsection 1 of
32 NRS 104.9501, by the file number assigned to the initial financing
33 statement to which the record relates; and
34 (b) To associate and retrieve with one another an initial financing
35 statement and each filed record relating to the initial financing statement.
36 7. The filing office may not remove a debtor's name from the index
37 until 1 year after the effectiveness of a financing statement naming the
38 debtor lapses under NRS 104.9515 with respect to all secured parties of
39 record.
40 8. The filing office shall perform the acts required by subsections 1 to
41 5, inclusive, within a reasonable time and in the manner prescribed by
42 filing-office rule.
43 9. ~~Subsection 2 does~~ *Subsections 2 and 8 do* not apply to a filing
44 office described in paragraph (a) of subsection 1 of NRS 104.9501.
45 **Sec. 21.** NRS 104.9525 is hereby amended to read as follows:
46 104.9525 1. Except as otherwise provided in subsection 5, the fee for
47 filing and indexing a record under this part, other than an initial financing
48 statement of the kind described in subsection ~~13~~ 2 of NRS 104.9502, is:



1 (a) Twenty dollars if the record is communicated in writing and consists
2 of one or two pages;

3 (b) Forty dollars if the record is communicated in writing and consists
4 of more than two pages, and \$1 for each page over 20 pages;

5 (c) Ten dollars if the record is communicated by another medium
6 authorized by filing-office rule; and

7 (d) One dollar for each additional debtor, trade name or reference to
8 another name under which business is done.

9 2. The filing officer may charge and collect \$1 for each page of copy
10 or record of filings produced by him at the request of any person.

11 3. Except as otherwise provided in subsection 5, the fee for filing and
12 indexing an initial financing statement of the kind described in subsection
13 3 of NRS 104.9502 is:

14 (a) Forty dollars if the financing statement indicates that it is filed in
15 connection with a public-finance transaction; and

16 (b) Twenty dollars if the financing statement indicates that it is filed in
17 connection with a manufactured-home transaction.

18 4. The fee for responding to a request for information from the filing
19 office, including for issuing a certificate showing whether there is on file
20 any financing statement naming a particular debtor, is:

21 (a) Twenty dollars if the request is communicated in writing; and

22 (b) Fifteen dollars if the request is communicated by another medium
23 authorized by filing-office rule.

24 5. This section does not require a fee with respect to a mortgage that is
25 effective as a financing statement filed as a fixture filing or as a financing
26 statement covering as-extracted collateral or timber to be cut under
27 subsection 3 of NRS 104.9502. However, the fees for recording and
28 satisfaction which otherwise would be applicable to the mortgage apply.

29 **Sec. 22.** NRS 104.9608 is hereby amended to read as follows:

30 104.9608 1. If a security interest or agricultural lien secures payment
31 or performance of an obligation, the following rules apply:

32 (a) A secured party shall apply or pay over for application the cash
33 proceeds of collection or enforcement under ~~this section~~ **NRS 104.9607**
34 in the following order to:

35 (1) The reasonable expenses of collection and enforcement and, to
36 the extent provided for by agreement and not prohibited by law, reasonable
37 attorney's fees and legal expenses incurred by the secured party;

38 (2) The satisfaction of obligations secured by the security interest or
39 agricultural lien under which the collection or enforcement is made; and

40 (3) The satisfaction of obligations secured by any subordinate
41 security interest in or other lien on the collateral subject to the security
42 interest or agricultural lien under which the collection or enforcement is
43 made if the secured party receives an authenticated demand for proceeds
44 before distribution of the proceeds is completed.

45 (b) If requested by a secured party, a holder of a subordinate security
46 interest or other lien shall furnish reasonable proof of the interest or lien
47 within a reasonable time. Unless the holder complies, the secured party
48 need not comply with the holder's demand under subparagraph (3) of
49 paragraph (a).



1 (c) A secured party need not apply or pay over for application noncash
2 proceeds of collection and enforcement under ~~this section~~ **NRS 104.9607**
3 unless the failure to do so would be commercially unreasonable. A secured
4 party that applies or pays over for application noncash proceeds shall do so
5 in a commercially reasonable manner.

6 (d) A secured party shall account to and pay a debtor for any surplus,
7 and the obligor is liable for any deficiency.

8 2. If the underlying transaction is a sale of accounts, chattel paper,
9 payment intangibles or promissory notes, the debtor is not entitled to any
10 surplus, and the obligor is not liable for any deficiency.

11 **Sec. 23.** NRS 104.9613 is hereby amended to read as follows:

12 104.9613 Except in a consumer-goods transaction, the following rules
13 apply:

14 1. The contents of a notification of disposition are sufficient if the
15 notification:

16 (a) Describes the debtor and the secured party;

17 (b) Describes the collateral that is the subject of the intended
18 disposition;

19 (c) States the method of intended disposition;

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

22 (e) States the time and place of a public ~~sale~~ **disposition** or the time
23 after which any other disposition is to be made.

24 2. Whether the contents of a notification that lacks any of the
25 information specified in subsection 1 are nevertheless sufficient is a
26 question of fact.

27 3. The contents of a notification providing substantially the
28 information specified in subsection 1 are sufficient, even if the notification
29 includes:

30 (a) Information not specified by that subsection; or

31 (b) Minor errors that are not seriously misleading.

32 4. A particular phrasing of the notification is not required.

33 5. The following form of notification and the form appearing in
34 subsection 3 of NRS 104.9614, when completed, each provides sufficient
35 information:

36 **NOTIFICATION OF DISPOSITION OF COLLATERAL**

37 To: [Name of debtor, obligor, or other person to
38 which the notification is sent]

39 From: [Name, address, and telephone number of
40 secured party]

41 Name of Debtor(s): [Include only if debtor(s) are not an addressee]

42
43 [For a public disposition:]

44 We will sell [or lease or license, as applicable] the [describe collateral]
45 [to the highest qualified bidder] in public as follows:

46
47 Day and Date:

48 Time:

49 Place:



[For a private disposition:]

We will sell [or lease or license, *as applicable*] the [*describe collateral*]
privately sometime after [*day and date*].

You are entitled to an accounting of the unpaid indebtedness secured by
the property that we intend to sell [or lease or license, *as applicable*] [for a
charge of \$ ____]. You may request an accounting by calling us at
[*telephone number*].

Sec. 24. NRS 104.9615 is hereby amended to read as follows:

104.9615 1. A secured party shall apply or pay over for application
the cash proceeds of disposition *under NRS 104.9610* in the following
order to:

(a) The reasonable expenses of retaking, holding, preparing for
disposition, processing and disposing, and, to the extent provided for by
agreement and not prohibited by law, reasonable attorney's fees and legal
expenses incurred by the secured party;

(b) The satisfaction of obligations secured by the security interest or
agricultural lien under which the disposition is made;

(c) The satisfaction of obligations secured by any subordinate security
interest in or other subordinate lien on the collateral if:

(1) The secured party receives from the holder of the subordinate
security interest or other lien an authenticated demand for proceeds before
distribution of the proceeds is completed; and

(2) In a case in which a consignor has an interest in the collateral, the
subordinate security interest or other lien is senior to the interest of the
consignor; and

(d) A secured party that is a consignor of the collateral if the secured
party receives from the consignor an authenticated demand for proceeds
before distribution of the proceeds is completed.

2. If requested by a secured party, a holder of a subordinate security
interest or other lien shall furnish reasonable proof of the interest or lien
within a reasonable time. Unless the holder does so, the secured party need
not comply with the holder's demand under paragraph (c) of subsection 1.

3. A secured party need not apply or pay over for application noncash
proceeds of disposition under ~~this section~~ *NRS 104.9610* unless the
failure to do so would be commercially unreasonable. A secured party that
applies or pays over for application noncash proceeds shall do so in a
commercially reasonable manner.

4. If the security interest under which a disposition is made secures
payment or performance of an obligation, after making the payments and
applications required by subsection 1 and permitted by subsection 3:

(a) Unless paragraph (d) of subsection 1 requires the secured party to
apply or pay over cash proceeds to a consignor, the secured party shall
account to and pay a debtor for any surplus; and

(b) The obligor is liable for any deficiency.

5. If the underlying transaction is a sale of accounts, chattel paper,
payment intangibles or promissory notes:

(a) The debtor is not entitled to any surplus; and



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1 (b) The obligor is not liable for any deficiency.
2 6. The surplus or deficiency following a disposition is calculated based
3 on the amount of proceeds that would have been realized in a disposition
4 complying with this part to a transferee other than the secured party, a
5 person related to the secured party or a secondary obligor if:

6 (a) The transferee in the disposition is the secured party, a person
7 related to the secured party or a secondary obligor; and

8 (b) The amount of proceeds of the disposition is significantly below the
9 range of proceeds that a complying disposition to a person other than the
10 secured party, a person related to the secured party or a secondary obligor
11 would have brought.

12 7. A secured party that receives cash proceeds of a disposition in good
13 faith and without knowledge that the receipt violates the rights of the
14 holder of a security interest or other lien that is not subordinate to the
15 security interest or agricultural lien under which the disposition is made:

16 (a) Takes the cash proceeds free of the security interest or other lien;

17 (b) Is not obligated to apply the proceeds of the disposition to the
18 satisfaction of obligations secured by the security interest or other lien; and

19 (c) Is not obligated to account to or pay the holder of the security
20 interest or other lien for any surplus.

21 **Sec. 25.** NRS 104.9625 is hereby amended to read as follows:

22 104.9625 1. If it is established that a secured party is not proceeding
23 in accordance with this article, a court may order or restrain collection,
24 enforcement or disposition of collateral on appropriate terms and
25 conditions.

26 2. Subject to subsections 3, 4 and 6, a person is liable for damages in
27 the amount of any loss caused by a failure to comply with this article. Loss
28 caused by a failure to comply ~~[with a request under NRS 104.9210]~~ may
29 include loss resulting from the debtor's inability to obtain, or increased
30 costs of, alternative financing.

31 3. Except as otherwise provided in NRS 104.9628:

32 (a) A person that, at the time of the failure, was a debtor, was an obligor
33 or held a security interest in or other lien on the collateral may recover
34 damages under subsection 2 for its loss; and

35 (b) If the collateral is consumer goods, a person that was a debtor or a
36 secondary obligor at the time a secured party failed to comply with this
37 part may recover for that failure in any event an amount not less than the
38 credit service charge plus 10 percent of the principal amount of the
39 obligation or the time-price differential plus 10 percent of the cash price.

40 4. A debtor whose deficiency is eliminated under NRS 104.9626 may
41 recover damages for the loss of any surplus. However, a debtor or
42 secondary obligor whose deficiency is eliminated or reduced under that
43 section may not otherwise recover under subsection 2 for noncompliance
44 with the provisions of this part relating to collection, enforcement,
45 disposition or acceptance.

46 5. In addition to any damages recoverable under subsection 2, the
47 debtor, consumer obligor or person named as a debtor in a filed record, as
48 applicable, may recover \$500 in each case from a person that:

49 (a) Fails to comply with NRS 104.9208;



- 1 (b) Fails to comply with NRS 104.9209;
2 (c) Files a record that he is not entitled to file under subsection 1 of
3 NRS 104.9509;
4 (d) Fails to cause the secured party of record to file or send a
5 termination statement as required by subsection 1 or 3 of NRS 104.9513;
6 (e) Fails to comply with paragraph (a) of subsection 2 of NRS 104.9616
7 and whose failure is part of a pattern, or consistent with a practice, of
8 noncompliance; or

9 (f) Fails to comply with paragraph (b) of subsection 2 of NRS 104.9616.
10 6. A debtor or consumer obligor may recover damages under
11 subsection 2 and, in addition, \$500 in each case from a person that, without
12 reasonable cause, fails to comply with a request under NRS 104.9210. A
13 recipient of a request under that section which never claimed an interest in
14 the collateral or obligations that are the subject of a request under that
15 section has a reasonable excuse for failure to comply with the request
16 within the meaning of this subsection.

17 7. If a secured party fails to comply with a request regarding a list of
18 collateral or a statement of account under NRS 104.9210, the secured party
19 may claim a security interest only as shown in the *list or* statement
20 included in the request as against a person that is reasonably misled by the
21 failure.

22 **Sec. 26.** NRS 104.9705 is hereby amended to read as follows:

23 104.9705 1. If action, other than the filing of a financing statement,
24 is taken before July 1, 2001, and the action would have resulted in priority
25 of a security interest over the rights of a person that becomes a lien creditor
26 had the security interest become enforceable before that date, the action is
27 effective to perfect a security interest that attaches under this article as
28 amended within 1 year after that date. An attached security interest
29 becomes unperfected 1 year after July 1, 2001, unless the security interest
30 becomes a perfected security interest under this article as amended before
31 the expiration of that period.

32 2. The filing of a financing statement before July 1, 2001, is effective
33 to perfect a security interest to the extent the filing would satisfy the
34 applicable requirements for perfection under this article as amended.

35 3. This article as amended does not render ineffective an effective
36 financing statement that was filed before July 1, 2001, and satisfied the
37 applicable requirements for perfection under the law of the jurisdiction
38 governing perfection as provided in NRS 104.9103 as that section read at
39 the time of filing. However, except as otherwise provided in subsections 4
40 and 5 and NRS 104.9706, the financing statement ceases to be effective at
41 the earlier of:

42 (a) The time the financing statement would have ceased to be effective
43 under the law of the jurisdiction in which it is filed; or

44 (b) June 30, 2006.

45 4. The filing of a continuation statement on or after July 1, 2001, does
46 not continue the effectiveness of the financing statement filed before that
47 date. However, upon the timely filing of a continuation statement after that
48 date and in accordance with the law of the jurisdiction governing
49 perfection as provided in part 3, the effectiveness of a financing statement



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1 filed in the same office in that jurisdiction before that date continues for the
2 period provided by the law of that jurisdiction.
3 5. Paragraph (b) of subsection 3 applies to a financing statement that
4 was filed against a transmitting utility before July 1, 2001, and satisfied the
5 applicable requirements for perfection under the law of the jurisdiction
6 governing perfection as provided in NRS 104.9103 as that section read at
7 the time of filing only to the extent that part 3 provides that the law of a
8 jurisdiction other than *the* jurisdiction in which the financing statement is
9 filed governs perfection of a security interest in collateral covered by the
10 financing statement.
11 6. A financing statement that includes a financing statement filed
12 before July 1, 2001, and a continuation statement filed after that date are
13 effective only to the extent that the financing statement satisfies the
14 requirements of part 5 for an initial financing statement.
15 **Sec. 27.** This act becomes effective at 12:01 a.m. on July 1, 2001.

