

CONNECTICUT CHANGES

TO UNIFORM VERSION OF

REVISED ARTICLE 9

OF THE UNIFORM COMMERCIAL CODE

By

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PART 1

GENERAL PROVISIONS

SECTION 9-102. DEFINITIONS AND INDEX OF DEFINITIONS.

(a) [Article 9 definitions.] In this article:

...

(27) “Continuation statement” means an amendment of a financing statement which:

(A) identifies, by its file number, or in the case of a recording with a filing office described by section 42a-9-501(a)(1) of the general statutes, as amended by section _____ of this act, by book and page number, the initial financing statement to which it relates; and

(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

...

(32) “Encumbrance” [~~means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property~~] includes real property mortgages and other liens on real property and all other rights in real property that are not ownership interest.

...

(38) “Filing-office [~~rule~~] regulation” means a rule adopted pursuant to section [~~9-526~~] 97 of this act. [Editor’s Note: *i.e.* section 42a-9-526, as amended by this act.]

...

(53) “Manufactured home” means a [~~structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems~~]

~~contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code] “mobile manufactured home” as defined in section 21-64.~~

...

(72) “Secured party” means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under Section ~~[2-401]~~ 42a-2-401, ~~[2-505]~~ 42a-2-505, ~~[2-711(3)]~~ 42a-2-711(3), ~~[2A-508(5)]~~, ~~[4-210]~~ 42a-4-210 or ~~[5-118]~~ section 42a-5-118, as amended by this act.

...

(79) “Termination statement” means an amendment of a financing statement which:

(A) identifies, by its file number, or in the case of a recording with a filing office described by section 42a-9-501(a)(1) as amended by this act by book and page number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

...

(b) **[Definitions in other articles.]** The following definitions in other articles apply to this article:

“Applicant”	Section [5-102] <u>42a-5-102.</u>
“Beneficiary”	Section [5-102] <u>42a-5-102.</u>
“Broker”	Section [8-102] <u>42a-8-102.</u>
“Certificated security”	Section [8-102] <u>42a-8-102.</u>
“Check”	Section [3-104] <u>42a-3-104.</u>
“Clearing corporation”	Section [8-102] <u>42a-8-102.</u>
“Contract for sale”	Section [2-106] <u>42a-2-106.</u>
“Customer”	Section [4-104] <u>42a-4-104.</u>
“Entitlement holder”	Section [8-102] <u>42a-8-102.</u>
“Financial asset”	Section [8-102] <u>42a-8-102.</u>
“Holder in due course”	Section [3-302] <u>42a-3-302.</u>
“Issuer” (with respect to a letter of credit or letter-of-credit right)	Section [5-102] <u>42a-5-102.</u>
“Issuer” (with respect to a security)	Section [8-201] <u>42a-8-201.</u>
“Lease”	Section 2A-103.
“Lease agreement”	Section 2A-103.
“Lease contract”	Section 2A-103.
“Leasehold interest”	Section 2A-103.
“Lessee”	Section 2A-103.
“Lessee in ordinary course of business”	Section 2A-103.
“Lessor”	Section 2A-103.
“Lessor’s residual interest”	Section 2A-103.]
“Letter of credit”	Section [5-102] <u>42a-5-102.</u>
“Merchant”	Section [2-104] <u>42a-2-104.</u>
“Negotiable instrument”	Section [3-104] <u>42a-3-104.</u>
“Nominated person”	Section [5-102] <u>42a-5-102.</u>

“Note”	Section [3-104] <u>42a-3-104</u> .
“Proceeds of a letter of credit”	Section [5-114] <u>42a-5-114</u> .
“Prove”	Section [3-103] <u>42a-3-103</u> .
“Sale”	Section [2-106] <u>42a-2-106</u> .
“Securities account”	Section [8-501] <u>42a-8-501</u> .
“Securities intermediary”	Section [8-102] <u>42a-8-102</u> .
“Security”	Section [8-102] <u>42a-8-102</u> .
“Security certificate”	Section [8-102] <u>42a-8-102</u> .
“Security entitlement”	Section [8-102] <u>42a-8-102</u> .
“Uncertificated security”	Section [8-102] <u>42a-8-102</u> .

**SECTION 9-103. PURCHASE-MONEY SECURITY INTEREST;
APPLICATION OF PAYMENTS; BURDEN OF ESTABLISHING.**

...

(e) [~~Application of payment [in non-consumer goods transaction].~~] **(1)**

In a transaction other than a consumer-goods transaction, if the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

[~~(1)~~] **(A)** in accordance with any reasonable method of application to which the parties agree;

[~~(2)~~] **(B)** in the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

[~~(3)~~] **(C)** in the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

[~~(A)~~] **(i)** to obligations that are not secured; and

[~~(B)~~] **(ii)** if more than one obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(2) In a consumer-goods transaction, if the extent to which a security

interest is a purchase-money security interest depends on the application of a payment to a particular obligation:

(A) the payment must be applied so that the secured party retains no purchase money security interest in any property as to which the secured party has recovered payments aggregating the amount of the sale price including any finance charges attributable thereto; and

(B) for the purposes of this subsection only, in the case of items purchased on different dates, the first item purchased shall be deemed the first paid for, and in the case of items purchased on the same date, the lowest priced item shall be deemed first paid for.

...

(h) **[Non-consumer-goods transactions; no inference.]** The limitation of the rules in subsections [~~(e)~~,] (f) [~~;~~] and (g) to transactions other than consumer-goods transactions is intended to leave to the court the determination of the proper rules in consumer-goods transactions. The court may not infer from that limitation the nature of the proper rule in consumer-goods transactions and may continue to apply established approaches. Those approaches may apply principles of existing statutory and case law that apply to analogous consumer transactions in similar goods under part XI of chapter 669 and under other law of this state.

...

SECTION 9-109. SCOPE.

(a) **[General scope of article.]** Except as otherwise provided in subsections (c) and (d), this article applies to:

(1) a transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(2) an agricultural lien;

(3) a sale of accounts, chattel paper, payment intangibles, or promissory notes;

(4) a consignment;

(5) a security interest arising under Section ~~[2-401]~~ 42a-2-401, ~~[2-505]~~ 42a-2-505, or ~~[2-711(3)]~~ 42a-2-177(3), ~~[or 2A-508(5);]~~ as provided in Section ~~[9-110]~~ 42a-9-110, as amended by this act; and

(6) a security interest arising under section ~~[4-210]~~ 42a-4-210 or ~~[5-118]~~ section 42a-5-118, as amended by this act.

(b) **[Security interest in secured obligation.]** The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(c) **[Extent to which article does not apply.]** This article does not apply to the extent that:

(1) a statute, regulation, or treaty of the United States preempts this article;

(2) ~~[another statute of this State expressly governs the creation, perfection, priority, or enforcement of a security interest created by this State or a governmental unit of this State;]~~

~~[(3)]~~ a statute of another State, a foreign country, or a governmental unit of another State or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the State, country, or governmental unit; or

~~(3)~~ ~~[(4)]~~ the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under Section ~~[5-114]~~ 42a-5-114.

(d) **[Inapplicability of article.]** This article does not apply to:

...

~~(14)~~ a transfer by a government or government subdivision or agency of this state;

~~(15)~~ an assignment of workers' compensation benefits governed by section 31-320; or

~~(16)~~ a security interest in a deposit account that is a payroll account or a trust account and which is titled or otherwise clearly identifiable as such an account.

SECTION 9-110. SECURITY INTERESTS ARISING UNDER ARTICLE

2 [OR 2A]. A security interest arising under Section [~~2-401~~] 42a-2-401, [~~2-505~~] 42a-2-505, or [~~2-711(3)~~] 42a-2-711(3) [~~, or 2A-508(5)~~] is subject to this article.

However, until the debtor obtains possession of the goods:

(1) the security interest is enforceable, even if section [~~9-203(b)(3)~~] 42a-9-203(b)(3), as amended by this act, has not been satisfied;

(2) filing is not required to perfect the security interest;

(3) the rights of the secured party after default by the debtor are governed by Article 2 [~~or 2A~~]; and

(4) the security interest has priority over a conflicting security interest created by the debtor.

PART 2

**EFFECTIVENESS OF SECURITY AGREEMENT;
ATTACHMENT OF SECURITY INTEREST;
RIGHTS OF PARTIES TO SECURITY AGREEMENT**

SECTION 9-201. GENERAL EFFECTIVENESS OF SECURITY AGREEMENT.

(a) [**General effectiveness.**] Except as otherwise provided in [~~the Uniform Commercial Code~~] this title, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) [**Applicable consumer laws and other law.**] A transaction subject to this article is subject to any applicable rule of law which establishes a different rule for consumers and [~~insert reference to (i) any other statute or regulation that regulates the rates, charges, agreements, and practices for loans, credit sales, or other extensions of credit and (ii) any consumer protection statute or regulation]~~ sections 36a-555 to 36a-573, inclusive, and sections 36a-770-36a-786, inclusive.

(c) **[Other applicable law controls.]** In case of conflict between this article and a rule of law, statute, or regulation described in subsection (b), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (b) has only the effect the statute or regulation specifies.

(d) **[Further deference to other applicable law.]** This article does not:

(1) validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (b); or

(2) extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

SECTION 9-207. RIGHTS AND DUTIES OF SECURED PARTY HAVING POSSESSION OR CONTROL OF COLLATERAL.

...

(b) **[Expenses, risks, duties, and rights when secured party in possession.]** Except as otherwise provided in subsection (d), if a secured party has possession of collateral:

(1) reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) the risk of accidental loss or damage is on the ~~debtor~~ secured party to the extent of a deficiency in any effective insurance coverage;

(3) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) the secured party may use or operate the collateral:

(A) for the purpose of preserving the collateral or its value;

(B) as permitted by an order of a court having competent jurisdiction; or

(C) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) [Duties and rights when secured party in possession or control.]

Except as otherwise agreed by a debtor other than a consumer debtor or as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under section [9-104, 9-105, 9-106, or 9-107] 42a-9-104, 42a-9-105, 42a-9-106, or 42a-9-107, as amended by this act:

- (1) may hold as additional security any proceeds, except money or funds, received from the collateral;
- (2) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and
- (3) may create a security interest in the collateral.

...

NEW SECTION [9-207a ?].

Any agreement for security in household furniture owned and in the possession of an individual and used primarily for housekeeping purposes shall be effective only to the extent that the agreement involves a purchase money security interest as provided in section 42a-9-103a of the general statutes, as amended by this act.

PART 3

PERFECTION AND PRIORITY

SECTION 9-311. PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS, AND TREATIES.

(a) **[Security interest subject to other law.]** Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

- (1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien

creditor with respect to the property preempt Section ~~[9-310(a)]~~ 42a-9-310(a), as amended by this act;

(2) ~~[list]~~ any certificate-of-title statute covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on the certificate as a condition or result of perfection, and any non-Uniform Commercial Code central filing statute, including chapter 247, section 21-67a, section 49-5, chapter 282, and chapter 283; or

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

(b) **[Compliance with other law.]** Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (d) of this section, section ~~[9-313]~~ 42a-9-313, as amended by this act, and ~~[9-316(d) and (e)]~~ subsections (d) and (e) of section 42a-9-316, as amended by this act, for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

...

(d) **[Inapplicability to certain inventory.]** During any period in which collateral subject to a statute specified in subsection (a)(2) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person ~~[as debtor]~~.

SECTION 9-316. CONTINUED PERFECTION OF SECURITY INTEREST FOLLOWING CHANGE IN GOVERNING LAW.

(a) **[General rule: effect on perfection of change in governing law.]** A security interest perfected pursuant to the law of the jurisdiction designated in section ~~[9-301(1) or 9-305(e)]~~ 42a-9-301(1), as amended by this act, or section 42a-9-305(c), as amended by this act, remains perfected until the earliest of:

- (1) the time perfection would have ceased under the law of that jurisdiction;
- (2) the expiration of four months after a change of the debtor's location to another jurisdiction; [or]
- (3) the expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction, or
- (4) the expiration of one year after a new debtor located in another jurisdiction becomes bound under section 42a-9-203(d), of the general statutes, as amended by section _____ of this act .

...

SECTION 9-320. BUYER OF GOODS.

(a) **[Buyer in ordinary course of business.]** Except as otherwise provided in subsection (e), a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(b) **[Buyer of consumer goods.]** Except as otherwise provided in subsection (e), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

- (1) without knowledge of the security interest;

- (2) for value;
- (3) primarily for the buyer's personal, family, or household purposes; and
- (4) before the filing of a financing statement covering the goods, except for consumer goods having an original purchase price not in excess of three thousand five hundred dollars.

...

Sec. 43. 42a-9-323. Insert as new section. There is no existing section.

SECTION 9-334. PRIORITY OF SECURITY INTERESTS IN FIXTURES AND CROPS.

...

(i) **[Priority of security interest in crops.]** A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

~~[(j) **[Subsection (i) prevails.]** Subsection (i) prevails over any inconsistent provisions of the following statutes:~~

~~[List here any statutes containing provisions inconsistent with subsection (i).]~~

SECTION 9-335. ACCESSIONS.

...

(f) **[Reimbursement following removal.]** A secured party that removes an accession from other goods under subsection (e) shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods [~~other than the debtor,~~] for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused

by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement, other than the debtor, may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

PART 4

RIGHTS OF THIRD PARTIES

SECTION 9-406. DISCHARGE OF ACCOUNT DEBTOR; NOTIFICATION OF ASSIGNMENT; IDENTIFICATION AND PROOF OF ASSIGNMENT; RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, AND PROMISSORY NOTES INEFFECTIVE.

(a) **[Discharge of account debtor; effect of notification.]** Subject to subsections (b) through (i), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor. An assignor who receives payment after notification is given must return the payment to the account debtor or forward the payment to the assignee.

...

(i) **[Inapplicability to ~~health-care-insurance-receivable~~.]**

(1) This section does not apply to:

(A) an assignment of a health-care-insurance receivable;

(B) an assignment or transfer of or creation of a security interest in:

(i) a claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. section 104(a)(1) or (2), as amended from time to time, or

(ii) a claim or right to receive benefits under a special needs trust as described in 42 U.S.C. section 1396p(d)(4), as amended from time to time.”

(2) Subsection (f) does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (f) ; section 12-831 of the general statutes; section 31-320 of the general statutes; and section 52-225f of the general statutes.

~~(j) [Section prevails over specified inconsistent law.] This section prevails over any inconsistent provisions of the following statutes, rules, and regulations:~~

SECTION 9-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH-CARE-INSURANCE RECEIVABLES, AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE.

(c) [Legal restrictions on assignment generally ineffective.]

Except as provided in subsection (f), [A] a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) would impair the creation, attachment, or perfection of a security interest; or

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

(d) [Limitation on ineffectiveness under subsections (a) and (c).]

To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than this article but is ineffective under subsection (a) or (c), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) is not enforceable against the person obligated on the promissory note or the account debtor;

(2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

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

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

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

~~(e) [Section prevails over specified inconsistent law.] This section prevails over any inconsistent provisions of the following statutes, rules, and regulations:~~

~~[List here any statutes, rules, and regulations]~~

~~containing provisions inconsistent with this section.] Except as provided in subsection (f), this section prevails over any inconsistent provision of any statute or regulation of this State unless the provision is contained in a statute of this State, refers expressly to this section and states that the provision prevails over this section.~~

(f) [Inapplicability.]

(1) This section does not apply to an assignment or transfer of or creation of a security interest in:

(1) a claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. section 104(a)(1) or (2), as amended from time to time, or

(2) a claim or right to receive benefits under a special needs trust as described in 42 U.S.C. section 1396p(d)(4), as amended from time to time.

(2) Subsection (c) does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes, to the extent that the statute is inconsistent with subsection (c): section 12-831, section 31-320, and section 52-225f.

PART 5

FILING

SECTION 9-501. FILING OFFICE.

(a) **[Filing offices.]** Except as otherwise provided in subsection (b), if the local law of this State governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) the office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) the collateral is as-extracted collateral or timber to be cut; or

(B) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(2) the office of ~~[]~~ ~~[or any office duly authorized by []]~~ the Secretary of the State, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) **[Filing office for transmitting utilities.]** The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of ~~[]~~ the Secretary of the State. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

**SECTION 9-502. CONTENTS OF FINANCING STATEMENT;
RECORD OF MORTGAGE AS FINANCING STATEMENT; TIME OF
FILING FINANCING STATEMENT.**

(a) **[Sufficiency of financing statement.]** Subject to subsection (b), a financing statement is sufficient only if it:

- (1) provides the name of the debtor;
- (2) provides the name of the secured party or a representative of the secured party; and
- (3) indicates the collateral covered by the financing statement.

(b) **[Real-property-related financing statements.]** Except as otherwise provided in Section ~~[9-501(b)]~~ 42a-9-501(b), as amended by this act, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) and also:

- (1) indicate that it covers this type of collateral;
- (2) indicate that it is to be filed ~~[for record]~~ in the real property records;

(3) provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this State if the description were contained in a record of the mortgage of the real property; and

(4) if the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) **[Record of mortgage as financing statement.]** A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) the record indicates the goods or accounts that it covers;

(2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) the record satisfies the requirements for a financing statement in this section other than an indication that it is to be ~~filed~~ recorded in the real property records; and

(4) the record is ~~duly~~ recorded.

(d) **[Filing before security agreement or attachment.]** A financing statement may be filed or recorded before a security agreement is made or a security interest otherwise attaches.

SECTION 9-512. AMENDMENT OF FINANCING STATEMENT.

~~[Alternative A]~~

~~(a) **[Amendment of information in financing statement.]** Subject to Section 9-509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (e), otherwise amend the information provided in, a financing statement by filing an amendment that:~~

~~(1) identifies, by its file number, the initial financing statement to which the amendment relates; and~~

~~(2) if the amendment relates to an initial financing statement filed [or recorded] in a filing office described in Section 9-501(a)(1), provides the information specified in Section 9-502(b).~~

~~_____~~ **[Alternative B]**

(a) **[Amendment of information in financing statement.]** Subject to section ~~[9-509]~~ [42a-9-509], a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (e), otherwise amend the information provided in, a financing statement by filing an amendment that:

(1) identifies, by its file number, the initial financing statement to which the amendment relates; ~~[and]~~ or

(2) if the amendment relates to an initial financing statement ~~[filed or]~~ recorded in a filing office described in Section ~~[9-501(a)(1)]~~ 42a-9-501(a)(1) of the general statutes, as amended by this act, identifies the initial financing statement to which the amendment relates by [provides] the book and page, or the date [and time] that the initial financing statement was [filed or] recorded [and the information specified in Section 9-502(b)] .

...

SECTION 9-514. ASSIGNMENT OF POWERS OF SECURED PARTY OF RECORD.

...

(c) **[Assignment of record of mortgage.]** An assignment of record of a security interest in a fixture covered by a fixture filing or record of a mortgage which is effective as a financing statement filed as a fixture filing under Section ~~[9-502(e)]~~ 42a-9-502(c) of the general statutes, as amended by this act, may be made only by an assignment of record of the fixture filing or mortgage in the manner provided by law of this State other than ~~[the Uniform Commercial Code]~~ title 42a of the general statutes.

SECTION 9-515. DURATION AND EFFECTIVENESS OF FINANCING STATEMENT; EFFECT OF LAPSED FINANCING STATEMENT.

...

(b) **[Public-finance-or manufactured-home transaction.]** Except as otherwise provided in subsections (e), (f), and (g), an initial financing statement filed in connection with a ~~[public-finance transaction-or]~~ manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a ~~[public-finance transaction-or]~~ manufactured-home transaction.

...

SECTION 9-516. WHAT CONSTITUTES FILING; EFFECTIVENESS OF FILING.

(a) **[What constitutes filing.]** Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing. In the case of a recording of a record in a filing office described in subdivision (1) of subsection(a) of section 42a-9-501 of the general statutes, as amended by this act, tender of the filing fee means tender of the fee set by section 7-34a of the general statutes.

(b) **[Refusal to accept record; filing does not occur.]** Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) the record is not communicated by a method or medium of communication authorized by the filing office;

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or correction statement, the record:

(i) does not identify the initial financing statement as required by section ~~[9-512 or 9-518]~~ [42a-9-512 or section 42a-9-518], as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under Section ~~[9-515]~~ [42a-9-515]; or

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; ~~or~~

~~(D) in the case of a record filed or recorded in the filing office described in Section 9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;]~~

(4) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) provide a mailing address for the debtor;

(B) indicate whether the debtor is an individual or an organization; or

(C) if the financing statement indicates that the debtor is an organization, provide:

(i) a type of organization for the debtor; and

(ii) a jurisdiction of organization for the

debtor; ~~or~~

~~(iii) an organizational identification number for the debtor or indicate that the debtor has none;]~~

(6) in the case of an assignment reflected in an initial financing statement under Section [9-514(a)] [42a-9-514(a)] or an amendment filed under Section [9-514(b)] [42a-9-514(b)], the record does not provide a name and mailing address for the assignee; or

(7) in the case of a continuation statement, the record is not filed within the six-month period prescribed by Section [9-515(d)] [42a-9-515(d)].

...

SECTION 9-518. CLAIM CONCERNING INACCURATE OR WRONGFULLY FILED RECORD.

(a) **[Correction statement.]** A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

~~_____ [Alternative A]~~

~~(b) **[Sufficiency of correction statement.]** A correction statement must:~~

~~(1) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;~~

~~(2) indicate that it is a correction statement; and~~

~~(3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.~~

~~_____ [Alternative B]~~

(b) **[Sufficiency of correction statement.]** A correction statement must:

(1) identify the record to which it relates by:

(A) the file number assigned to the initial financing statement to which the record relates; ~~and~~ or

(B) if the correction statement relates to a record ~~[filed or]~~ recorded in a filing office described in Section ~~[9-501(a)(1)]~~ 42a-9-501(a)(1) of the general statutes, as amended by this act, the book and page on which or the date ~~[and time]~~ that the initial financing statement was ~~[filed or]~~ recorded ~~[and the information specified in Section 9-502(b)]~~;

(2) indicate that it is a correction statement; and

(3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

~~[[End of Alternatives]]~~

(c) **[Record not affected by correction statement.]** The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

SECTION 9-519. NUMBERING, MAINTAINING, AND INDEXING RECORDS; COMMUNICATING INFORMATION PROVIDED IN RECORDS.

(a) **[Filing office duties.]** For each record filed in a filing office, the filing office shall:

(1) in the case of a record filed in the filing office described in Section 42a-9-501(a)(2) of the general statutes, as amended by this act, assign a unique number to the filed record;

(2) in the case of a record filed in the filing office described in Section 42a-9-501(a)(2) of the general statutes, as amended by this act, create a record that bears the number assigned to the filed record and the date and time of filing;

(3) maintain the filed record for public inspection; and

(4) index the filed record in accordance with subsections ~~[(e), (d), and (e)]~~ (b), (c), and (d).

(b) [~~File number.~~] A file number [~~assigned after January 1, 2002,~~] must include a digit that:

(1) is mathematically derived from or related to the other digits of the file number; and

(2) aids the filing office in determining whether a number communicated as the file number includes a single digit or transpositional error.

(e) [~~Indexing: general.~~] Except as otherwise provided in subsections [~~(d) and (e)~~] (c) and (d), the filing office shall:

(1) index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(2) index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(d) (c) [~~Indexing: real-property-related financing statement.~~] If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, [~~it must be filed for record and~~] the filing office shall index it:

(1) in the grantor index under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(2) [~~to the extent that the law of this State provides for indexing of records of mortgages under the name of the mortgagee,~~] in the grantee index under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(e) (d) [~~Indexing: real-property-related assignment.~~] If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under Section [~~9-514(a)~~] 42a-9-514(a) or an amendment filed under Section [~~9-514(b)~~] 42a-9-514(b):

(1) in the grantor index under the name of the assignor as grantor; and

(2) ~~[to the extent that the law of this State provides for indexing a record of the assignment of a mortgage under the name of the assignee,]~~ in the grantee index under the name of the assignee. The filing officer shall also enter upon the margin of the record of such original financing statement a notation of the record of the subsequent assignment or amendment and of any continuation statement, termination statement or correction statement.

~~[Alternative A]~~

~~(f) [Retrieval and association capability.]~~ The filing office shall maintain a capability:

(1) to retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

~~(2) to associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.~~

[Alternative B]

~~((f)) (e) [Retrieval and association capability.]~~ The filing office shall maintain a capability:

(1) to retrieve a record by the name of the debtor and :

(A) if the filing office is described in Section ~~[9-501(a)(1)]~~ 42a-9-501(a)(1) of the general statutes, as amended by this act, by the ~~[file]~~ book and page number assigned to the initial financing statement to which the record relates ~~[and the date [and time] that the record was filed [or recorded]]~~; or

~~(B)~~ if the filing office is described in Section ~~[9-501(a)(2)]~~ 42a-9-501(a)(2) of the general statutes, as amended by this act, by the file number assigned to the initial financing statement to which the record relates; and

(2) to associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

~~[End of Alternatives]~~

~~((g))~~ (f) **[Removal of debtor's name.]** The filing office may not remove a debtor's name from the index until one year after the effectiveness of a financing statement naming the debtor lapses under Section ~~[9-515]~~ [42a-9-515] with respect to all secured parties of record.

~~((h))~~ (g) **[Timeliness of filing office performance.]** The filing office shall perform the acts required by subsections (a) through ~~((e))~~ (d) at the time and in the manner prescribed by filing-office ~~[rule]~~ regulation, but not later than ~~[two]~~ five business days after the filing office receives the record in question.

~~((i))~~ (h) **[Inapplicability to real-property-related filing office.]** Subsection~~s~~ ~~[(b)]~~ ~~[and]~~ ~~[(h)]~~ (g) do~~es~~ not apply to a filing office described in Section ~~[9-501(a)(1)]~~ 42a-9-501(a)(1) of the general statutes, as amended by this act.

SECTION 9-520. ACCEPTANCE AND REFUSAL TO ACCEPT RECORD.

...

(b) **[Communication concerning refusal.]** If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made

at the time and in the manner prescribed by filing-office ~~[rule]~~ regulation but ~~{~~, in the case of a filing office described in Section ~~[9-501(a)(2)]~~ 42a-9-501(a)(2) of the general statutes, as amended by this act, ~~}~~ in no event more than ~~[two]~~ five business days after the filing office receives the record.

...

SECTION 9-521. UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND AMENDMENT.

~~[(a) **Initial financing statement form.**] [Forms.]~~ A filing office that accepts written records may not refuse to accept a written initial financing statement, an amendment to a financial statement, or other written record in ~~[the following]~~ a form and format prescribed by the Secretary of the State except for a reason set forth in Section ~~[9-516(b)]~~ [42a-9-516(b)]~~[:].~~ [Editor's Note: The proposed Uniform draft form has been deleted.]

~~[(b) **Amendment form.**]~~ A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason set forth in Section 9-516(b):

[Editor's Note: The proposed form has been deleted.]

SECTION 9-522. MAINTENANCE AND DESTRUCTION OF RECORDS.

~~[Alternative A]~~

~~(a) **Post lapse maintenance and retrieval of information.**~~ The filing office shall maintain a record of the information provided in a filed financing statement for at least one year after the effectiveness of the financing statement has lapsed under Section 9-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

~~[Alternative B]~~

(a) **[Post-lapse maintenance and retrieval of information.]** The filing office shall maintain a record of the information provided in a filed financing statement for at least one year after the effectiveness of the financing statement has lapsed under Section ~~[9-515]~~ [42a-9-515] with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and:

(1) if the record was ~~[filed or]~~ recorded in the filing office described in Section 9-501(a)(1), by using the ~~[file]~~ book and page number assigned to the initial financing statement to which the record relates ~~[and]~~ or the date ~~[and time]~~ that the record was ~~[filed or]~~ recorded; or

(2) if the record was filed in the filing office described in Section ~~[9-501(a)(2)]~~ 42a-9-501(a)(2) of the general statutes, as amended by this act, by using the file number assigned to the initial financing statement to which the record relates.

~~[End of Alternatives]~~

(b) **[Destruction of written records.]** Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (a).

SECTION 9-523. INFORMATION FROM FILING OFFICE; SALE OR LICENSE OF RECORDS.

(a) **[Acknowledgment of filing written record.]** If a person that files a written record requests an acknowledgment of the filing, the filing office, in the case of a filing office described in Section 42a-9-501(a)(2) of the general statutes, as amended by this act, shall send to the person an ~~[image]~~ acknowledgment of the filing of the record showing the number assigned to the record pursuant to Section ~~[9-519(a)(1)]~~ [42a-9-519(a)(1)] and the date and time of the filing of the record and, in the case of a filing office described in section 42a-9-501(a)(1) of the general statutes, as amended by this act, shall send to the person

an acknowledgment of the filing of the record showing the book and page and date and time of the filing of the record. [~~However, if the person furnishes a copy of the record to the filing office, the filing office may instead:~~

~~(1) note upon the copy the number assigned to the record pursuant to Section 9-519(a)(1) and the date and time of the filing of the record; and~~

~~(2) send the copy to the person.]~~

(b) **[Acknowledgment of filing other record.]** If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(1) the information in the record; and

(2) in the case of a filing office described in subdivision (2) of of subsection (a) of section 42a-9-501 of the general statutes, as amended by this act, the number assigned to the record pursuant to Section [9-519(a)(1)] [42a-9-519(a)(1)], or, in the case of a filing office described in section 42a-9-501(a)(1) of the general statutes, as amended by this act, the book and page assigned to the record; and

(3) the date and time of the filing of the record.

(c) **[Communication of requested information.]** The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

(1) whether there is on file on a date and time specified by the filing office, but not a date earlier than ~~[three]~~ six business days before the filing office receives the request, any financing statement that:

(A) designates a particular debtor [~~or, if the request so states, designates a particular debtor at the address specified in the request~~];

(B) has not lapsed under Section ~~[9-515]~~ [42a-9-515] with respect to all secured parties of record; and

(C) if the request so states, has lapsed under Section ~~[9-515]~~ [42a-9-515] and a record of which is maintained by the filing office under Section ~~[9-522(a)]~~ [42a-9-522(a)];

(2) the date and time of filing of each financing statement;
and

(3) the information provided in each financing statement, except that the filing office is not required to transcribe information that is otherwise available concerning collateral.

(d) **[Medium for communicating information.]** In complying with its duty under subsection (c), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing ~~[its written certificate]~~ ~~[a record that can be admitted into evidence in the courts of this State without extrinsic evidence of its authenticity].~~

(e) **[Timeliness of filing office performance.]** The filing office described in Section 42a-9-501(a)(2) of the general statutes, as amended by section ____ of this act shall perform the acts required by subsections (a) through (d) at the time and in the manner prescribed by filing-office ~~[rule]~~ regulation, but not later than ~~[two]~~ five business days after the filing office receives the request.

(f) **[Public availability of records.]** At least ~~weekly~~ monthly, the ~~[insert appropriate official or governmental agency]~~ ~~[filing office]~~ Secretary of the State shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part, in every medium from time to time available to the filing office described in Section 42a-9-501(a)(2) of the general statutes, as amended by section ____ of this act.

SECTION 9-525. FEES.

(a) ~~**[Initial financing statement or other record: general rule.]**~~
~~Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in subsection (b), is [the amount specified in subsection (e), if applicable, plus]:~~

(1) \$ ~~___~~ [X] _____ if the record is communicated in writing and consists of one or two pages;

(2) \$ ___[2X]_____ if the record is communicated in writing and consists of more than two pages; and

(3) \$ ___[1/2X]_____ if the record is communicated by another medium authorized by filing office rule.

~~(b) [Initial financing statement: public finance and manufactured housing transactions.]~~ Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the following kind is [the amount specified in subsection (e), if applicable, plus]:

~~(1) \$ _____ if the financing statement indicates that it is filed in connection with a public finance transaction;~~

~~(2) \$ _____ if the financing statement indicates that it is filed in connection with a manufactured home transaction.~~

~~[Alternative A]~~

~~(c) [Number of names.]~~ The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b).

~~[Alternative B]~~

~~(e) [Number of names.]~~ Except as otherwise provided in subsection (e), if a record is communicated in writing, the fee for each name more than two required to be indexed is \$ _____.

~~[End of Alternatives]~~

The Secretary of the State shall charge and collect the following uniform fees: (1) for filing and indexing an original financing statement, a continuation statement, a termination statement, a separate written statement of assignment, a correction statement or an amendment, twenty-five dollars; (2) for filing and noting a statement of release, twenty-five dollars. No fee shall be charged (A) to the state when the original statement, continuation statement, amendment, statement of assignment, correction statement, statement of release or termination statement is filed by or at the request of the Attorney General or an assistant attorney general or by a duly authorized official of the state or any of its agencies, boards or commissions acting in an official capacity, or (B) to a

municipality when the original statement, continuation statement, amendment, statement of assignment, correction statement, statement of release or termination statement is filed by a tax collector or other municipal officer of such municipality pursuant to the provisions of sections 12-195a to 12-195g, inclusive, of the general statutes, as amended by this act, or (C) for any filing accomplished solely by electronic means and without the physical submission of any document, instrument, or paper, in accordance with a plan approved by the Secretary of the State.

~~(d) **[Response to information request.]** [The fee for responding to a request for information from the filing office, including for [issuing a certificate showing] [communicating] whether there is on file any financing statement naming a particular debtor, is:~~

~~(1) \$ _____ if the request is communicated in writing; and~~

~~(2) \$ _____ if the request is communicated by another~~

~~medium authorized by filing office rule.]~~

(b) The uniform fee for responding to a request for information from the filing office, including issuing a certificate showing whether there is on file, on the date and hour stated therein, any financing statement naming a particular debtor and any statement of assignment or amendment thereof and, if there is, giving the date and hour of filing such statement or amendment and the names and address of each secured party named therein, is twenty-five dollars. Upon request the filing officer shall furnish a photographic or electronic copy of any filed financing statement, continuation statement, termination statement, statement of assignment, amendment or statement of release for a uniform fee of twenty dollars regardless of the number of pages; for affixing his certification and official seal thereto, five dollars. No fee shall be charged to the state when a certificate showing whether there is on file, on the date and hour stated therein, any presently effective financing statement, naming a particular debtor and any assignment or amendment thereof, is requested by the Attorney General or an assistant attorney general or by an authorized official of the state or any of its agencies, boards or commissions acting in an official capacity, and no fee shall be charged to a municipality when such certificate is requested by the tax collector or other municipal officer of such

municipality, pursuant to the provisions of sections 12-195a to 12-195g, inclusive, of the general statutes, as amended by sections _____ to _____ of this act.

...

SECTION 9-526. FILING-OFFICE ~~[RULES]~~ REGULATIONS.

(a) **[Adoption of filing-office ~~[rules]~~ regulations.** The ~~[insert appropriate governmental official or agency]~~ Secretary of the State shall adopt ~~[and publish rules]~~ regulations in accordance with the provisions of chapter 54 of the general statutes to implement this article. ~~[The filing-office rules must be:]~~

~~(1)] consistent with this article[; and~~

~~(2) adopted and published in accordance with the [insert any applicable state administrative procedure act]].~~

(b) ~~[Harmonization of rules.]~~ To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the ~~[insert appropriate governmental official or agency]~~, so far as is consistent with the purposes, policies, and provisions of this article, in adopting, amending, and repealing filing-office rules, shall:

~~(1) consult with filing offices in other jurisdictions that enact substantially this part; and~~

~~(2) consult the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators or any successor organization; and~~

~~(3) take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.]~~

~~SECTION 9-527. DUTY TO REPORT.~~ The [insert appropriate governmental official or agency] shall report [annually on or before _____] to the [Governor and Legislature] on the operation of the filing office. The report must contain a statement of the extent to which:

(1) the filing office rules are not in harmony with the rules of filing offices in other jurisdictions that enact substantially this part and the reasons for these variations; and

(2) the filing office rules are not in harmony with the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators, or any successor organization, and the reasons for these variations.

PART 6

DEFAULT

SECTION 9-601. RIGHTS AFTER DEFAULT; JUDICIAL ENFORCEMENT; CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, OR PROMISSORY NOTES.

...

(c) **[Rights cumulative; simultaneous exercise.]** The rights under subsections (a) and (b) are cumulative and, except as otherwise prohibited in a consumer transaction, may be exercised simultaneously.

SECTION 9-603. AGREEMENT ON STANDARDS CONCERNING RIGHTS AND DUTIES.

(a) **[Agreed standards.]** The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in Section ~~[9-602]~~ [42a-9-602] if the standards are not manifestly unreasonable, or in the case of a consumer transaction, if the standards are not unreasonable.

(b) **[Agreed standards inapplicable to breach of peace.]**

Subsection (a) does not apply to the duty under Section ~~[9-609]~~ [42a-9-609] to refrain from breaching the peace.

**SECTION 9-604. PROCEDURE IF SECURITY AGREEMENT
COVERS REAL PROPERTY OR FIXTURES.**

...

(d) **[Injury caused by removal.]** A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property ~~[, other than the debtor,]~~ for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement, other than the debtor, may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

**SECTION 9-605. UNKNOWN DEBTOR OR SECONDARY
OBLIGOR.** (a) A secured party does not owe a duty based on its status as secured party:

(1) to a person that is a debtor or obligor, unless the secured party knows:

- (A) that the person is a debtor or obligor;
- (B) the identity of the person; and
- (C) how to communicate with the person; or

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

- (A) that the person is a debtor; and
- (B) the identity of the person.

(b) What the secured party knows is to be determined in the light of the good faith obligations of the secured party.

SECTION 9-607. COLLECTION AND ENFORCEMENT BY SECURED PARTY.

...

(b) **[Nonjudicial enforcement of mortgage.]** If necessary to enable a secured party to exercise under subsection (a)(3) the right of a debtor, if any, to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) a copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) the secured party's sworn affidavit in recordable form stating that:

(A) a default has occurred; and

(B) the secured party is entitled to enforce the mortgage nonjudicially.

...

SECTION 9-609. SECURED PARTY'S RIGHT TO TAKE POSSESSION AFTER DEFAULT.

(a) **[Possession; rendering equipment unusable; disposition on debtor's premises.]** After default, a secured party:

(1) may take possession of the collateral; ~~and~~

(2) without removal, may render equipment unusable and dispose of collateral on a debtor's premises under Section ~~[9-610]~~ [42a-9-610].

(b) **[Judicial and nonjudicial process.]** A secured party may proceed under subsection (a):

(1) pursuant to judicial process; or

(2) without judicial process, if it proceeds without breach of the peace.

(c) **[Assembly of collateral.]** If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

(d)(1) In this section “electronic self help” means the use of electronic means to exercise a secured party’s rights pursuant to subsection (a) of this section with respect to the security agreement, and “electronic” means relating to technology that has electrical, digital, magnetic or wireless optical electromagnetic properties or similar capabilities. “Electronic self-help” includes the use of electronic means to locate the collateral.

(2) Electronic self help is only permitted if the debtor separately agrees to a term authorizing electronic self help that requires notice of exercise as provided in subdivision (3) of this subsection.

(3) Before resorting to electronic self-help authorized by a term of the security agreement, the secured party shall give notice to the debtor stating:

(i) that the secured party intends to resort to electronic self-help as a remedy on or after 15 days following communication of the notice to the debtor;

(ii) the nature of the claimed breach which entitled the secured party to resort to self-help; and

(iii) the name, title, address and telephone number of a person representing the secured party with whom the debtor may communicate concerning the security interest.

(4) The debtor may recover direct and incidental damages caused by wrongful use of electronic self-help. The debtor may also recover consequential damages for wrongful use of electronic self-help even if such damages are excluded by the terms of the security agreement.

(5) Even if the secured party complies with subdivisions (2) and (3) of this subsection, electronic self-help may not be used if the secured party has reason to know that its use will result in substantial injury or harm to the general public or safety or grave harm to the public interest substantially affecting third parties not involved in the dispute.

SECTION 9-617. RIGHTS OF TRANSFEREE OF COLLATERAL.

(a) **[Effects of disposition.]** A secured party's disposition of collateral after default:

(1) transfers to a transferee for value all of the debtor's rights in the collateral;

(2) discharges the security interest under which the disposition is made; and

(3) discharges any subordinate security interest or other subordinate lien ~~[other than liens created under [cite acts or statutes providing for liens, if any, that are not to be discharged]]~~.

...

SECTION 9-620. ACCEPTANCE OF COLLATERAL IN FULL OR PARTIAL SATISFACTION OF OBLIGATION; COMPULSORY DISPOSITION OF COLLATERAL.

(1) the debtor consents to the acceptance under subsection (c);

(2) the secured party does not receive, within the time set forth in subsection (d), a notification of objection to the proposal authenticated by:

(A) a person to which the secured party was required to send a proposal under Section ~~[9-624]~~ [42a-9-621]; or

(B) any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(3) if the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(4) subsection (e) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to Section ~~[9-624]~~ [42a-9-624].

(b) **[Purported acceptance ineffective.]** A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) the secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(2) the conditions of subsection (a) are met.

(c) **[Debtor's consent.]** For purposes of this section:

(1) a debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(2) a debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(A) sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(B) in the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) does not receive a notification of objection authenticated by the debtor within 20 days after the proposal is sent.

(d) **[Effectiveness of notification.]** To be effective under subsection (a)(2), a notification of objection must be received by the secured party:

(1) in the case of a person to which the proposal was sent pursuant to Section ~~[9-621]~~ [42a-9-621], within 20 days after notification was sent to that person; and

(2) in other cases:

(A) within 20 days after the last notification was sent pursuant to Section ~~[9-621]~~ [42a-9-621]; or

(B) if a notification was not sent, before the debtor consents to the acceptance under subsection (c).

(e) **[Mandatory disposition of consumer goods.]** A secured party that has taken possession of collateral shall dispose of the collateral pursuant to Section ~~[9-610]~~ [42a-9-621] within the time specified in subsection (f) if:

(1) 60 percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) 60 percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(f) **[Compliance with mandatory disposition requirement.]** To comply with subsection (e), the secured party shall dispose of the collateral:

(1) within 90 days after taking possession; or

(2) within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(g) **[No partial satisfaction in consumer transaction.]** In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

(h) Nothing in subsection (b) shall prohibit a consumer in a consumer goods transaction from proving that the secured party has agreed to accept the collateral in full satisfaction of the obligation by means other than an authenticated record.

SECTION 9-625. REMEDIES FOR SECURED PARTY'S FAILURE TO COMPLY WITH ARTICLE.

(a) **[Judicial orders concerning noncompliance.]** If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) **[Damages for noncompliance.]** Subject to subsections (c), (d), and (f), a person is liable for damages in the amount of any loss caused by a failure

to comply with this article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) **[Persons entitled to recover damages; statutory damages in consumer-goods transaction.]** Except as otherwise provided in Section ~~[9-628]~~ [42a-9-628]:

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

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

(d) **[Recovery when deficiency eliminated or reduced.]** A debtor whose deficiency is eliminated under Section ~~[9-626]~~ [42a-9-621] may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under Section ~~[9-626]~~ [42a-9-626] may not otherwise recover under subsection (b) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(e) **[Statutory damages: noncompliance with specified provisions.]** In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover \$500 in each case from a person that:

(1) fails to comply with Section ~~[9-208]~~ 42a-9-208 of the general statutes, as amended by this act;

(2) fails to comply with Section ~~[9-209]~~ 42a-9-209 of the general statutes, as amended by this act;

(3) files a record that the person is not entitled to file under Section ~~[9-509(a)]~~ [42a-9-509(a)];

(4) fails to cause the secured party of record to file or send a termination statement as required by Section ~~[9-513(a) or (e)]~~ [42a-9-513(a) or (c)]; or

(5) fails to comply with Section ~~[9-616(b)(1)]~~ [42a-9-616(b)] ~~and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or~~

~~(6) fails to comply with Section [9-616(b)(2)] (b)(2) of this act.~~

(f) **[Statutory damages: noncompliance with Section 9-210.]** A debtor or consumer obligor may recover damages under subsection (b) and, in addition, \$500 in each case from a person that, without reasonable cause, fails to comply with a request under Section ~~[9-210]~~ [42a-9-210]. A recipient of a request under Section ~~[9-210]~~ [42a-9-210] which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) **[Limitation of security interest: noncompliance with Section 9-210.]** If a secured party fails to comply with a request regarding a list of collateral or a statement of account under Section ~~[9-210]~~ [42a-9-210], the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

SECTION 9-626. ACTION IN WHICH DEFICIENCY OR SURPLUS IS IN ISSUE.

...

(b) **[Non-consumer transactions; no inference.]** The limitation of the rules in subsection (a) to transactions other than consumer transactions is intended to leave to the court the determination of the proper rules in consumer transactions. The court may not infer from that limitation the nature of the proper rule in consumer transactions and may continue to apply established approaches. Notwithstanding subsection (b) of section [9-627] [42a-9-627], those approaches

may apply principles of existing statutory and case law, including laws concerning the calculation of a deficiency or surplus, that apply to analogous consumer transactions in similar goods under part XI of chapter 669 of the general statutes and under other Connecticut law.

SECTION 9-627. DETERMINATION OF WHETHER CONDUCT WAS COMMERCIALY REASONABLE.

...

(b) **[Dispositions that are commercially reasonable.]** A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

- (1) in the usual manner on any recognized market;
- (2) at the price current in any recognized market at the time of the disposition; or
- (3) otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(c) **[Approval by court or on behalf of creditors.]** A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

- (1) in a judicial proceeding;
- (2) by a bona fide creditors' committee;
- (3) by a representative of creditors; or
- (4) by an assignee for the benefit of creditors.

(d) **[Approval under subsection (c) not necessary; absence of approval has no effect.]** Approval under subsection (c) need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

(e) Notwithstanding the provisions of subsection (b), in a consumer transaction the calculation of a deficiency or surplus is subject to the court

determination of the proper rule that applies to a consumer transaction under
Section [9-626(b)] _____ (b) of this act.

PART 7
TRANSITION

~~SECTION 9-701. EFFECTIVE DATE. This [Act] takes effect on July 1,
2001.~~