



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Office of the Specifics

MARK FORBES
Date: 10/2/06
Time: 8:00 AM
Rec'd by: [Signature]
Print Name: [Signature]
2806 1084

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

29 SEP 2006

The Honorable Mark Forbes
Speaker
Mina' Bente Ocho Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr Speaker:

Transmitted herewith is Bill No. 338(EC), "AN ACT TO REPEAL THE IMPLEMENTATION DATE OF REVISED ARTICLE 9 OF TITLE 13 GUAM CODE ANNOTATED AND TO CREATE A TASKFORCE TO RECOMMEND REVISIONS TO TITLE 13 OF THE GUAM CODE ANNOTATED, ALSO KNOWN AS ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE.," which I signed into law on September 29, 2006, as Public Law 28-148.

Sinseru yan Magåhet,

[Handwritten Signature]

FELIX P. CAMACHO
I Maga'lahen Guåhan
Governor of Guam

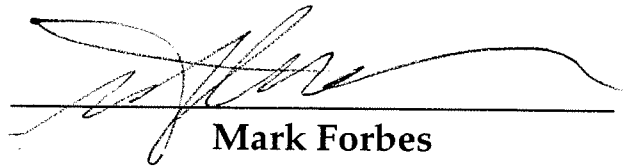
Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo
Senator and Legislative Secretary

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2006 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 338(EC), "AN ACT TO *REPEAL* THE IMPLEMENTATION DATE OF REVISED ARTICLE 9 OF TITLE 13 GUAM CODE ANNOTATED AND TO CREATE A TASKFORCE TO RECOMMEND REVISIONS TO TITLE 13 OF THE GUAM CODE ANNOTATED, ALSO KNOWN AS ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE," was on the 27<sup>th</sup> day of September, 2006, duly and regularly passed.



---

Mark Forbes  
Speaker

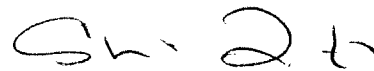
Attested:



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Edward J.B. Calvo  
Senator and Secretary of the Legislature

-----  
This Act was received by *I Maga'lahaen Guåhan* this 27<sup>th</sup> day of Sept, 2006, at  
7:45 o'clock P.M.



---

Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:



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FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: 29 SEPT 2006

Public Law No. 28-148

***MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN***  
**2006 (SECOND) Regular Session**

**Bill No. 338 (EC)**

As amended by the Committee  
on Finance, Taxation, and Commerce.

Introduced by:

A. R. Unpingco  
F. B. Aguon, Jr.  
J. M.S. Brown  
Edward J.B. Calvo  
B. J.F. Cruz  
Mike Cruz  
Mark Forbes  
L. F. Kasperbauer  
R. Klitzkie  
J. A. Lujan  
A. B. Palacios, Sr.  
R. J. Respicio  
Ray Tenorio  
J. T. Won Pat

**AN ACT TO *REPEAL* THE IMPLEMENTATION DATE OF  
REVISED ARTICLE 9 OF TITLE 13 GUAM CODE  
ANNOTATED AND TO CREATE A TASKFORCE TO  
RECOMMEND REVISIONS TO TITLE 13 OF THE GUAM  
CODE ANNOTATED, ALSO KNOWN AS ARTICLE 9 OF THE  
UNIFORM COMMERCIAL CODE.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 previous attempts to update the Uniform Commercial Code, also referred to as UCC,  
4 by adopting Revised Article Nine UCC relative to Secured Transactions have failed  
5 and that the updating process can only be done by revising the entire UCC. The  
6 Revised Article Nine makes references to the following other Articles within the

1 UCC: Revised Article 1, General Provisions; Revised Article 2, Sales; Revised  
2 Article 2A, Leases; Revised Article 3, Negotiable Instruments; Revised Article 4,  
3 Bank Deposits and Collections; Revised Article 4A, Fund Transfers; Revised Article  
4 5, Letters of Credits; Revised Article 6, Bulk Sales; Revised Article 7, Documents of  
5 Title; Revised Article 8, Investment Securities. Article 2A dealing with personal  
6 property leases and Article 4A dealing with electronic fund transfers are currently not  
7 part of Guam's Code. The other Articles have had numerous additions and deletions  
8 which are not reflected in Guam's Code. The Committee on Finance, Taxation and  
9 Commerce has met with the Guam Bankers' Association and they have produced not  
10 only an updated revised Article 9 but also a recommendation that a complete Article  
11 by Article revision of the UCC be undertaken. Although this project appears to be  
12 monumental, it is the intent of *I Liheslaturan Guåhan* to enact the various Articles by  
13 November 2006. It is also the intent of *I Liheslaturan Guåhan* to repeal the respective  
14 Public Laws adopted to implement Revised Article 9 and to reinstate the original  
15 Guam Code Annotated Article 9 as the law to be followed.

16 **Section 2.** Public Law 26-172 is hereby *repealed*.

17 **Section 3.** Public Law 27-40 is hereby *repealed*.

18 **Section 4.** Section 36 of Chapter VI of Public Law 27-106 is hereby *repealed*.

19 **Section 5.** Public Law 28-67 is hereby *repealed*.

20 **Section 6. Savings Provision.** Any security interest perfected under the UCC,  
21 Revised Article 9, as enacted by Public Law 26-172 between the date of its enactment  
22 and the effective date of Public Law 27-40 shall be deemed to have been perfected  
23 under Division 9 of Title 13 of the Guam Code Annotated. Any security interest  
24 perfected between the date of enactment of Public Law 26-172 and the effective date  
25 of Public Law 27-40 in the manner provided by Division 9 of Title 13 of the Guam  
26 Code Annotated prior to its repeal by Public Law 26-172 shall likewise be deemed to  
27 have been perfected under Division 9 of Title 13 of the Guam Code Annotated as if

1 Public Law 26-172 had never been enacted. Any security interest perfected during  
2 the time period between the enactment of Public Law 26-172 and the enactment  
3 hereof shall be deemed valid if it was perfected correctly pursuant to the laws in effect  
4 at that time.

5 *No contract, security agreement or security interest entered into between the*  
6 *enactment of Public Law 26-172 and the enactment hereof shall be declared invalid or*  
7 *unenforceable because of minor defects therein caused by changes in Article 9 UCC*  
8 *or a party's misunderstanding of the state of Article 9 UCC. The courts shall construe*  
9 *any agreement or related document containing such a defect so as to do substantial*  
10 *justice.*

11 **Section 7. *Reenactment.*** *Except as provided in Section 6 hereof, Division 9 of*  
12 *Title 13 of the Guam Code Annotated as it existed immediately prior to the enactment*  
13 *of Public Law 26-172 is hereby reenacted effective as of the date of enactment of*  
14 *Public Law 26-172. The original Division 9 of Article 13 of Guam Code Annotated is*  
15 *attached hereto as "Exhibit A".*

16 **Section 8. *Creation of Taskforce.*** A Taskforce comprised of the Chairman  
17 of the Committee on Tourism, Maritime, Military and Veterans Affairs of *I*  
18 *Lihsaturan Guåhan*, the Chairman of the Committee on Finance, Taxation, and  
19 Commerce of *I Lihsaturan Guåhan*, the Presiding Officers or their designees from  
20 the Guam Bankers Association, Guam Auto Dealers Association, Guam Bar  
21 Association, the Compiler of Laws and a representative from the Chamber of  
22 Commerce is hereby established for the purpose of drafting a complete revision of  
23 Title 13 Guam Code Annotated relative to the Uniform Commercial Code. The final  
24 draft of the revised Title 13 Guam Code Annotated shall be transmitted to *I*  
25 *Lihsaturan Guåhan* for adoption.

**I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN**  
 2006 (SECOND) Regular Session

Date: 9/27/06

**VOTING SHEET**

Bill No. 338 (ce)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
AGUON, Frank B., Jr.				<i>[initials]</i>	EX Abs
BROWN, Joanne M.S.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J.F.	✓				
CRUZ, Michael (Dr.)	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
KLITZKIE, Robert	✓				
LUJAN, Jesse A.	✓				
PALACIOS, Adolpho B.	✓				
RESPICIO, Rory J.	✓				
TENORIO, Ray	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL                      13      0      0      X      1

CERTIFIED TRUE AND CORRECT:

*[Signature]*  
 Clerk of the Legislature

\* 3 Passes = No vote  
 EA = Excused Absence

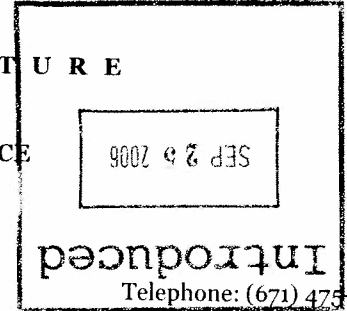


MINA BENTE OCHO NA LIHESLATURAN GUÅHAN  
TWENTY-EIGHTH GUAM LEGISLATURE

**Senator Edward J.B. Calvo**  
SECRETARY OF THE LEGISLATURE

Chairman  
COMMITTEE ON FINANCE, TAXATION & COMMERCE

OFFICE OF FINANCE AND BUDGET



E-Mail address: sencalvo@yahoo.com  
Website: www.senatoreddiebazacalvo.com  
155 Hesler Street Hagåtña, Guam 96910

Telephone: (671) 475-8801  
Facsimile: (671) 475-8805

September 20, 2006

The Honorable Mark Forbes  
Speaker  
*Mina Bente Ocho na Liheslaturan Guåhan*  
155 Hessler Street  
Hagåtña, Guam 96910

*Häfa adai*, Mr. Speaker:

The Committee on Finance, Taxation, and Commerce, to which **Bill No. 338 (EC): *An Act To Repeal The Implementation Date Of Revised Article 9 Of Title 13 Guam Code Annotated And To Create A Taskforce To Recommend Revisions To Title 13 Of The Guam Code Annotated Known As The Uniformed Commercial Code***, was referred, wishes to report out Bill No. 338 (EC), as amended by the Committee.

The voting record for Bill No. 338 (EC) is as follows:

TO PASS	<u>6</u>
NOT TO PASS	<u>Ø</u>
TO REPORT OUT	<u>Ø</u>
ABSTAIN	<u>Ø</u>
TO PLACE IN INACTIVE FILE	<u>Ø</u>

Copies of the Committee Report and other pertinent documents are attached. Thank you for your attention in this matter. *Si Yu'os Ma'åse!*

  
Senator Edward J.B. Calvo, Chairman

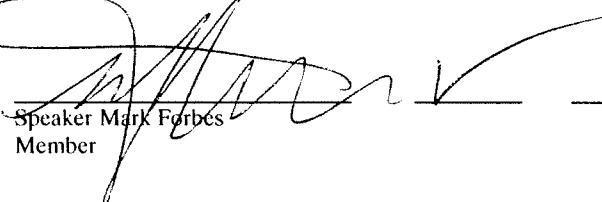
**Committee Voting Sheet**  
**Committee on Finance, Taxation, and Commerce**  
**Office of Finance and Budget**  
*Sinadot Edward J.B. Calvo, Ge'Hilo'*

**Bill No.338 (EC): An Act To Repeal The Implementation Date Of Revised Article 9 Of Title 13 Guam Code Annotated And To Create A Taskforce To Recommend Revisions To Title 13 Of The Guam Code Annotated Known As The Uniformed Commercial Code, as amended by the Committee on Finance, Taxation, and Commerce.**

Committee Members	To Pass	Not to Pass	Report Out	Abstain	Inactive File
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 _____ Senator Edward J.B. Calvo Chairperson	✓	_____	_____	_____	_____
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 _____ Senator Lawrence F. Kasperbauer Vice Chairperson	X	_____	_____	_____	_____
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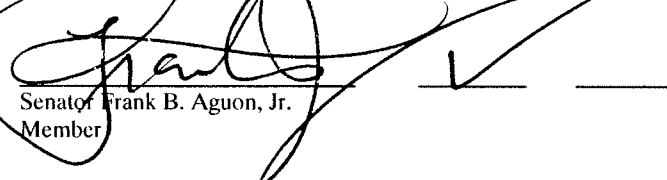
 _____ Speaker Mark Forbes Member	✓	_____	_____	_____	_____
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_____ Senator Antonio R. Unpingco Member	_____	_____	_____	_____	_____
--	-------	-------	-------	-------	-------

 _____ Senator Ray Tenorio Member	✓	_____	_____	_____	_____
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_____ Senator Jesse A. Lujan Member	_____	_____	_____	_____	_____
---	-------	-------	-------	-------	-------

 _____ Senator Adolpho B. Palacios Member	✓	_____	_____	_____	_____
--	---	-------	-------	-------	-------

 _____ Senator Frank B. Aguon, Jr. Member	✓	_____	_____	_____	_____
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**MINA'BE E OCHO NA LIHESLATURAN GUÅHAN**  
**TWENTY-EIGHTH GUAM LEGISLATURE**

**Senator Edward J.B. Calvo**  
**SECRETARY OF THE LEGISLATURE**

Chairman  
**COMMITTEE ON FINANCE, TAXATION & COMMERCE**

**OFFICE OF FINANCE AND BUDGET**

E-Mail address: [sencalvo@yahoo.com](mailto:sencalvo@yahoo.com)  
Website: [www.senatoreddiebazacalvo.com](http://www.senatoreddiebazacalvo.com)  
155 Hesler Street Hagåtña, Guam 96910

Telephone: (671) 475-8801  
Facsimile: (671) 475-8805

September 20, 2006

**MEMORANDUM**

To: Committee Members

From: Chairman, Committee on Finance, Taxation, and Commerce

Subject: Committee Report on Bill No. 338 (EC), as amended by the Committee

This memorandum is accompanied by the following:

1. Committee voting sheet
2. Public Hearing sign-in sheet
3. Notice of Public Hearing
4. Testimonies submitted

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated. Should there be any questions regarding this matter, please feel free to contact my office at 475-8801.

A handwritten signature in black ink, appearing to read "E. Calvo".

**Senator Edward J.B. Calvo**  
Chairman



# BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR  
Post Office Box 2950, Hagåtña Guam 96932

FELIX PEREZ CAMACHO  
GOVERNOR

CARLOS P. BORDALLO  
DIRECTOR

AUG 17 2006


KALEO SCOTT MOYLAN  
LIEUTENANT GOVERNOR

The Bureau requests that Bill No. 338 (EC) be granted a waiver pursuant to Public Law 12-229 as amended for the following reason(s):

The proposed legislation seeks to repeal the implementation date of revised Article 9 of Title 13 GCA (known as the Uniformed Commercial Code or UCC) as well as to create a taskforce to recommend comprehensive revisions to the said Title. It is I Liheslatura's finding that past statutory attempts to update Article 9 including P.L. 26-172, P.L. 27-40, P.L. 27-106 (Ch.VI, Sec.36) & P.L. 28-67 have failed and must be repealed. Further, it is indicated that the UCC must be updated in its entirety and the process should involve representation from various sectors including, but not limited to, I Liheslatura, the Guam Bankers Association and Guam Bar Association.

In its current form, the proposed legislation is administrative in nature and does not pose a fiscal impact on the Government of Guam. The Bureau reserves comment until such time that the aforementioned taskforce convenes and proposed amendments to the UCC are preferred.

Lastly, the Bureau would like to note that Section 4 of the proposed legislation must be amended as there is incorrect reference to P.L. 26-106, Ch.V, Sec.36 as the intent is actually to repeal P.L. 27-106, Ch.VI, Sec.36 relative to the UCC. Public law No. 26-106 pertains to the renaming of the Commercial Port of Guam to the "Jose D. Leon Guerrero Commercial Port."

  
Carlos P. Bordallo

sent to Edward J.B. Calvo  
ACKNOWLEDGEMENT RECEIPT

Rcv'd by: Nicole

Print Name & Initial

Time: 9:00 AM

Date: 8-18-06

6  
9/27/06

**MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN  
2006 (SECOND) Regular Session**

**Bill No. 338 (EC)**

As amended by the Committee on Finance,  
Taxation, and Commerce

**Introduced by:**

**A. R. Unpingco**

**AN ACT TO REPEAL THE IMPLEMENTATION DATE  
OF REVISED ARTICLE 9 OF TITLE 13 GUAM CODE  
ANNOTATED AND TO CREATE A TASKFORCE TO  
RECOMMEND REVISIONS TO TITLE 13 OF THE  
GUAM CODE ANNOTATED KNOWN AS THE  
UNIFORMED COMMERCIAL CODE.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 previous attempts to update the Uniformed Commercial Code also referred to as  
4 “UCC” by adopting Revised Article Nine relative to Secured Transaction have failed  
5 and this process could only be done by bringing the entire “UCC” up to date.  
6 Adopting Revised Article Nine makes references to other Articles within the “UCC”  
7 which contains the following articles: Revised Article 1 General Provisions; Revised  
8 Article 2 Sales; Revised Article 2A Leases; Revised Article 3 Negotiable Instruments;  
9 Revised Article 4 Bank Deposits and Collections; Revised Article 4A Fund Transfers;  
10 Revised Article 5 Letters of Credits; Revised Article 6 Bulk Sales; Revised Article 7  
11 Documents of Title; Revised Article 8 Investment Securities. Article 2A dealing with  
12 personal property leases and Article 4A dealing with electronic fund transfers are  
13 currently not part of Guam’s current Code. The other Articles have had numerous  
14 additions and deletions which are not reflected in Guam’s Code. The Committee  
15 which has oversight on Insurance and Banking has been meeting with the Guam  
16 Bankers Association and such meetings not only produced an updated revised

1 Article 9 but also a recommendation that a full and complete Article by Article  
2 revision be undertaken. Although this project appears to be monumental, it is the  
3 intent of *I Liheslaturan Guåhan* to assign the various Articles among the members  
4 impacted; this project should be completed by November, 2006. It is also the intent of  
5 *I Liheslaturan Guåhan* to repeal the respective Public Laws adopted to implement  
6 Revised Article 9 and the original Guam Code Annotated Article 9 remains the law to  
7 be followed.

8 **Section 2.** Public Law 26-172 is hereby repealed.

9 **Section 3.** Public Law 27-40 is hereby repealed.

10 **Section 4.** Section 36 of Chapter VI of Public Law 2[6]7-106 is hereby  
11 repealed.

12 **Section 5.** Public Law 28-67 is hereby repealed.

13 **Section 6. Savings Provision.** Any security interest perfected under the UCC,  
14 Revised Article 9 as enacted by Public Law 26-172 between the date of its enactment  
15 and the effective date of Public Law 27-40 shall be deemed to have been perfected  
16 under Division 9 of Title 13 of the Guam code Annotated. Any security interest  
17 perfected between the date of enactment of Public Law 26-72 and the effective date of  
18 Public Law 27-40 in the manner provided by Division 9 of Title 13 of the Guam Code  
19 Annotated prior to its repeal by Public Law 26-172 shall likewise be deemed to have  
20 been perfected under Division 9 of Title 13 of the Guam Code Annotated as if Public  
21 Law 26-172 had never been enacted. Any security interest perfected during the time  
22 period between P.L. 26-172 and the enactment of this act shall be deemed valid if it  
23 was perfected correctly pursuant to the laws in effect at that time. ~~By mutual consent,~~  
24 ~~parties to a security agreement may amend their security agreement to conform to the~~  
25 ~~new law.~~

26 No contract, security agreement or security interest entered into between the  
27 enactment of P. L. 26-172 and the enactment hereof present shall be declared invalid

1 or unenforceable because of minor defects therein caused by changes on Article 9 or a  
2 party's misunderstanding of the state of Article 9. The courts shall construe any  
3 agreement or related document containing such a defect so as to do substantial justice.

4 **Section 7. Reenactment.** Except as provided in Section 6 hereof, Division 9  
5 of Title 13 of the Guam Code Annotated as it existed immediately prior to the  
6 enactment of Pubic Law 26-172 is hereby reenacted effective as of the date of  
7 enactment of Public Law 26-172. The original Division 9 of Article 13 of Guam  
8 Code Annotated is attached as "Exhibit A".

9 **Section 8. Creation of Taskforce.** A Taskforce comprising of the  
10 Chairman, Committee on Tourism, Maritime, Military and Veterans Affairs, the  
11 Chairman, Committee on Finance, Taxation, and Commerce along with the Presiding  
12 Officer or his/her Designee from the Guam Bankers Association, Guam Auto Dealers  
13 Association, Guam Bar Association along with the Compiler of Law and a  
14 representative from the Chamber of Commerce who are impacted by Title 13 is  
15 hereby created for the purpose of drafting a complete revision of Title 13 Guam Code  
16 Annotated relative to the Uniform Commercial Code. The final draft of Revised Title  
17 13 Guam Code Annotated shall be transmitted to *I Liheslaturan Guåhan* for adoption.

**MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN**  
**2006 (SECOND) Regular Session**

**Bill No. 338 (EC)**

Introduced by:

A. R. Unpingco 

**AN ACT TO REPEAL THE  
IMPLEMENTATION DATE OF REVISED  
ARTICLE 9 OF TITLE 13 GUAM CODE  
ANNOTATED AND TO CREATE A  
TASKFORCE TO RECOMMEND  
REVISIONS TO TITLE 13 OF THE  
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THE UNIFORMED COMMERCIAL CODE.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 previous attempts to update the Uniformed Commercial Code also referred  
4 to as "UCC" by adopting Revised Article Nine relative to Secured  
5 Transaction have failed and this process could only be done by bringing the  
6 entire "UCC" up to date. Adopting Revised Article Nine makes references  
7 to other Articles within the "UCC" which contains the following articles:  
8 Revised Article 1 General Provisions; Revised Article 2 Sales; Revised

1 Article 2A Leases; Revised Article 3 Negotiable Instruments; Revised  
2 Article 4 Bank Deposits and Collections; Revised Article 4A Fund Transfers;  
3 Revised Article 5 Letters of Credits; Revised Article 6 Bulk Sales; Revised  
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5 Article 2A dealing with personal property leases and Article 4A dealing  
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7 Code. The other Articles have had numerous additions and deletions  
8 which are not reflected in Guam's Code. The Committee which has  
9 oversight on Insurance and Banking has been meeting with the Guam  
10 Bankers Association and such meetings not only produced an updated  
11 revised Article 9 but also a recommendation that a full and complete Article  
12 by Article revision be undertaken. Although this project appears to be  
13 monumental, it is the intent of *I Liheslaturan Guåhan* to assign the various  
14 Articles among the members impacted; this project should be completed by  
15 November, 2006. It is also the intent of *I Liheslaturan Guåhan* to repeal the  
16 respective Public Laws adopted to implement Revised Article 9 and the  
17 original Guam Code Annotated Article 9 remains the law to be followed.

18 **Section 2.** Public Law 26-172 is hereby repealed.

19 **Section 3.** Public Law 27-40 is hereby repealed.

20 **Section 4.** Section 36 of Chapter V of Public Law 26-106 is hereby repealed.

1       **Section 5.** Public Law 28-67 is hereby repealed.

2       **Section 6. Savings Provision.** Any security interest perfected under the  
3       UCC, Revised Article 9 as enacted by Public Law 26-172 between the date of  
4       its enactment and the effective date of Public Law 27-40 shall be deemed to  
5       have been perfected under Division 9 of Title 13 of the Guam code  
6       Annotated. Any security interest perfected between the date of enactment  
7       of Public Law 26-72 and the effective date of Public Law 27-40 in the  
8       manner provided by Division 9 of Title 13 of the Guam Code Annotated  
9       prior to its repeal by Public Law 26-172 shall likewise be deemed to have  
10      been perfected under Division 9 of Title 13 of the Guam Code Annotated as  
11      if Public Law 26-172 had never been enacted. Any security interest  
12      perfected during the time period between P.L. 26-172 and the enactment of  
13      this act shall be deemed valid if it was perfected correctly pursuant to the  
14      laws at that time. By mutual consent, parties to a security agreement may  
15      amend their security agreement to conform to the new law.

16      No contract, security agreement or security interest entered into between  
17      the enactment of P. L. 26-172 and the enactment hereof present shall be  
18      declared invalid or unenforceable because of minor defects therein caused  
19      by changes on Article 9 or a party's misunderstanding of the state of Article



1 9. The courts shall construe any agreement or related document containing  
2 such a defect so as to do substantial justice.

3 **Section 7. Reenactment.** Except as provided in Section 6 hereof, Division 9  
4 of Title 13 of the Guam Code Annotated as it existed immediately prior to  
5 the enactment of Public Law 26-172 is hereby reenacted effective as of the  
6 date of enactment of Public Law 26-172. The original Division 9 of Article  
7 13 of Guam Code Annotated is attached as exhibit A.

8 **Section 8. Creation of Taskforce.** A Taskforce comprising of the Chairman,  
9 Committee on Tourism, Maritime, Military and Veterans Affairs along with the  
10 Presiding Officer or his/her Designee from the Guam Bankers Association, Guam  
11 Auto Dealers Association, Guam Bar Association along with the Compiler of Law  
12 and a representative from the Chamber of Commerce who are impacted by Title  
13 13 is hereby created for the purpose of drafting a complete revision of Title 13  
14 Guam Code Annotated relative to the Uniform Commercial Code. The final draft  
15 of Revised Title 13 Guam Code Annotated shall be transmitted to *I Liheslaturan*  
16 *Guåhan* for adoption.

*Final  
Chair*

# Exhibit A

13 GCA UNIFORM COMMERCIAL CODE  
DIV. 9 SECURED TRANSACTIONS; SALES OF ACCOUNTS AND CHATTEL PAPER

DIVISION 9  
SECURED TRANSACTIONS; SALES OF ACCOUNTS AND CHATTEL PAPER

NOTE: Public Law 26-172 (Dec. 30, 2002) repealed and reenacted Division 9 to adopt the 2001 Revision of the Article 9 of the Uniform Commercial and did not provide an effective date. Public Law 27-40 (Nov. 18, 2003) amended P.L. 26-172 to add section 5 which made the effective date Oct. 1, 2004. Public Law 27-106 (Sept. 30, 2004) extended the effective date until Oct. 1, 2005. Public Law 28-067 (Sept. 20, 2005) further extended the effective date until Oct. 1, 2006. The Division 9 provided below is pre-P.L. 26-172 and is the current version of the law.

- Chapter 1. Short Title: Applicability and Definitions.
- Chapter 2. Validity of Security Agreement and Rights of Parties Thereto.
- Chapter 3. Rights of Third Parties; Perfected and Unperfected Security Interests; Rules of Priority.
- Chapter 4. Filing.
- Chapter 5. Default.

CHAPTER 1  
SHORT TITLE: APPLICABILITY AND DEFINITIONS

- § 9101. Short Title.
- § 9102. Policy and Scope of Division.
- § 9103. Perfection of Security Interests in Multiple State Transactions.
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**§ 9101. Short Title.**

This division shall be known and may be cited as *Uniform Commercial Code--Secured Transactions*.

**§ 9102. Policy and Scope of Division.**

(1) Except as otherwise provided in Section 9104 on excluded transactions, this division applies

(a) To any transaction (regardless of its form) which is intended to create a security interest in personal property including goods, documents, instruments, general intangibles, chattel paper or accounts; and also

(b) To any sale of accounts or chattel paper; and also

(c) To any transaction (regardless of its form) which is intended to create a security interest in goods which are or later become "fixtures" under the law of this Territory, but as against third parties having or acquiring an interest in or a lien on the real property, the rights and duties of the parties to the secured transactions are governed by the law of this Territory relating to real property and fixtures.

(2) This division applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, inventory lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This division does not apply to statutory liens except as provided in Section 9310.

(3) The application of this division 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 division does not apply.

**COMMENT:** Subdivision (4) of Section 9102 of the California Commercial Code forbids a non-possessory security interest, other than a purchase money security interest, upon the inventory of certain retail merchants. The provision has been criticized as preserving "nothing but accidental distinctions," see West Ann. Cal. Comm. Code § 9102, California Code Comment (1964), has no counterpart in the Uniform Commercial Code and is not continued here.

**§ 9103. Perfection of Security Interests in Multiple State Transactions.**

(1) Documents, instruments and ordinary goods.

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(a) This subdivision applies to documents and instruments and to goods other than those covered by a certificate of title described in subdivision (2), mobile goods described in subdivision (3), and minerals described in subdivision (5), except that as to goods which are or later become fixtures under the law of this territory, the application of this subdivision is limited by the provisions of subdivision (1)(c) of Section 9102.

(b) Except as otherwise provided in this subdivision, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until 30 days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the 30-day period.

(d) When collateral is brought into and kept in this territory while subject to a security interest perfected under the law of jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by Chapter 3 of this division to perfect the security interest,

(i) If the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this territory, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

(ii) If the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter;

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(iii) For the purpose of priority over a buyer of consumer goods (subdivision (2) of Section 9307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(2) Certificate of title.

(a) This subdivision applies to goods covered by a certificate of title issued under a statute of this territory or of another jurisdiction under the law of which indication of a security on the certificate is required as a condition of perfection whether such certificate is designated a "certificate of title," "certificate of ownership," or otherwise.

(b) Except as otherwise provided in this subdivision, perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this territory and thereafter covered by a certificate of title issued by this territory is subject to the rules stated in paragraph (d) of subdivision (1).

(d) If goods are brought into this territory while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this territory and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

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**(3) Accounts, general intangibles and mobile goods.**

(a) This subdivision applies to accounts (other than an account described in subdivision (5) on minerals) and general intangibles and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, roadbuilding and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subdivision (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection, or non-perfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to

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another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper. The rules stated for goods in subdivision (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subdivision (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals. Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

**§ 9104. Transactions Excluded from Division.**

This division does not apply:

- (a) To a security interest subject to any statute of the United States to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or
- (b) To a lien given by statute or other rule of law for services or materials except as provided in Section 9310 on priority of such liens; or
- (c) To a transfer of a claim for wages, salary or other compensation of an employee; or
- (d) To a transfer, including creation of a security interest, by a government or governmental subdivision or agency; or
- (e) To a sale of accounts or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts or chattel paper which is for the purpose of collection only, or a transfer of a right to payment under a contract to an assignee who is also to do the performance under the contract or a transfer of a single account to an assignee in whole or partial satisfaction of a preexisting indebtedness; or

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(f) To any loan made by an insurance company pursuant to the provisions of a policy or contract issued by it and upon the sole security of such policy or contract; or

(g) To a right represented by a judgment (other than a judgment taken in a right to payment which was collateral); or

(h) To any right of setoff; or

(i) To the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder and to any interest of a lessor and lessee in any such lease or rents; or

(j) To a transfer in whole or in part of any claim arising out of tort.

**§ 9105. Definitions and Index of Definitions.**

(1) In this division unless the context otherwise requires:

(a) *Account debtor* means the person who is obligated on an account, chattel paper or general intangible;

(b) *Chattel paper* means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) *Collateral* means the property subject to a security interest, and includes accounts, and chattel paper which have been sold;

(d) *Debtor* means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the division dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) *Deposit account* means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit;



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(f) *Document* means document of title as defined in the general definitions of Division 1 (Section 1201), and a receipt of the kind described in subdivision (2) of Section 7201;

(g) *Encumbrance* includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) *Goods* includes all things which are movable at the time the security interest attaches or which are fixtures (other than goods incorporated into a structure in the manner of lumber, bricks, tile, cement, glass, metalwork and the like unless the structure remains personal property under applicable law), but does not include money, documents, instruments, accounts, chattel paper, general intangibles or minerals or the like (including oil and gas) before extraction. Goods also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops;

(i) *Instrument* means a negotiable instrument (defined in Section 3104), or a security (defined in Section 8102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;

(j) *Mortgage* means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(k) An *advance* is made pursuant to commitment if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) *Security agreement* means an agreement which creates or provides for a security interest;

(m) *Secured party* means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

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(n) *Transmitting utility* means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service.

(o) *New value* includes new advances or loans made, or new obligations incurred, or the release of a valid and existing security interest, or the release of a claim to proceeds; but new value shall not be construed to include extension or renewals of existing obligations of the debtor, nor obligations substituted for such existing obligations.

(2) Other definitions applying to this division and the sections in which they appear are:

*Account.* Section 9106.

*Attach.* Section 9203.

*Consumer goods.* Section 9109(1).

*Construction mortgage.* Section 9313(1).

*Equipment.* Section 9109(2).

*Farm products.* Section 9109(3).

*General intangibles.* Section 9106.

*Inventory.* Section 9109(4).

*Lien creditor.* Section 9301(3).

*Proceeds.* Section 9306(1).

*Purchase money security interest.* Section 9107.

*United States.* Section 9103.

(3) The following definitions in other divisions apply to this division:

*Check.* Section 3104.

*Contract for sale.* Section 2106.

*Holder in due course.* Section 3302.

*Note.* Section 3104.



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*Sale.* Section 2106.

(4) In addition Division 1 contains general definitions and principles of construction and interpretation applicable throughout this division.

**§ 9106. Definitions: Account; General Intangibles.**

Account means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. General intangibles means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.

**§ 9107. Definitions: Purchase Money Security Interest.**

A security interest is a purchase money security interest to the extent that it is

(a) Taken or retained by the seller of the collateral to secure all or part of its price; or

(b) Taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used.

**§ 9108. When After-Acquired Collateral Not Security for Antecedent Debt.**

Where a secured party makes an advance, incurs an obligation, releases a perfected security interest, or otherwise gives new value which is to be secured in whole or in part by afteracquired property his security interest in the afteracquired collateral shall be deemed to be taken for new value and not as security for an antecedent debt if the debtor acquires his rights in such collateral either in the ordinary course of his business or under a contract of purchase made pursuant to the security agreement within a reasonable time after new value is given.

**§ 9109. Classification of Goods; Consumer Goods; Equipment; Farm Products; Inventory.**

Goods are:

(1) Consumer goods if they are used or bought for use primarily for personal, family or household purposes;

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(2) Equipment if they are used or bought for use primarily in business (including farming or a profession) or by a debtor who is a nonprofit organization or a governmental subdivision or agency or if the goods are not included in the definitions of inventory, farm products or consumer goods;

(3) Farm products if they are crops or livestock or supplies used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states (such as ginned cotton, wool clip, maple syrup, milk and eggs), and if they are in the possession of a debtor engaged in raising, fattening, grazing or other farming operations. If goods are farm products they are neither equipment nor inventory;

(4) Inventory if they are held by a person who holds them for sale or lease or to be furnished under contracts of service or if he has leased or so furnished them, or if they are raw materials, work in process or materials used or consumed in a business. Inventory of a person is not to be classified as his equipment.

**§ 9110. Sufficiency of Description.**

For the purposes of this division any description of personal property or real estate is sufficient whether or not it is specific if it reasonably identifies what is described.

**COMMENT:** Section 9110 is identical to Section 9-110 of the 1972 Official Text of the Uniform Commercial Code. For purpose and effect, see Official Comment. The additional sentence in the California version can only be characterized as redundant and unnecessary.

**§ 9111. Applicability of Bulk Transfer Laws.**

The creation of a security interest under this division may be a bulk transfer under Division 6, except as specified in subdivision (1) of Section 6103.

**§ 9112. Where Collateral Is Not Owned by Debtor.**

Unless otherwise agreed, when a secured party knows that collateral is owned by a person who is not the debtor, the owner of the collateral is entitled to receive from the secured party any surplus under Section 9502(2) or under Section 9504(1), and is not liable for the debt or for any deficiency after resale, and he has the same right as the debtor.

(a) To receive statements under Section 9208;

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(b) To receive notice of and to object to a secured party's proposal to retain the collateral in satisfaction of the indebtedness under Section 9505;

(c) To redeem the collateral under Section 9506;

(d) To obtain injunctive or other relief under Section 9507(1); and

(e) To recover losses caused to him under Section 9208(2).

**§ 9113. Security Interests Arising Under Division on Sales.**

A security interest arising solely under the division on sales (Division 2) is subject to the provisions of this division except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods

(a) No security agreement is necessary to make the security interest enforceable; and

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

(c) The rights of the secured party on default by the debtor are governed by the division on sales (Division 2).

**§ 9114. Consignment.**

(1) A person who delivers goods under a consignment which is not a security interest and who would be required to file under this division by paragraph (3)(c) of Section 2326 has priority over a secured party who is or becomes a creditor of the consignee and who would have a perfected security interest in the goods if they were the property of the consignee, and also his priority with respect to identifiable cash proceeds received on or before delivery of the goods to a buyer, if

(a) The consignor complies with the filing provision of the division on sales with respect to consignments (paragraph (3)(c) of Section 2326) before the consignee receives possession of the goods; and

(b) The consignor gives notification in writing to the holder of the security interest if the holder has filed a financing statement covering the same types of goods before the date of the filing made by the consignor; and

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(c) The holder of the security interest receives the notification within five years before the consignee receives possession of the goods; and

(d) The notification states that the consignor expects to deliver goods on consignment to the consignee describing the goods by item or type.

(2) In the case of a consignment which is not a security interest and in which the requirements of the preceding subdivision have not been met, a person who delivers goods to another is subordinate to a person who would have a perfected security interest in the goods if they were the property of the debtor.

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**CHAPTER 2**  
**VALIDITY OF SECURITY AGREEMENT**  
**AND RIGHTS OF PARTIES THERETO**

- § 9201. General Validity of Security Agreement.
- § 9202. Title to Collateral Immaterial.
- § 9203. Enforceability of Security Interests; Proceeds, Formal Requisites.
- § 9204. After-Acquired Property; Future Advances.
- § 9205. Use or Disposition of Collateral Without Accounting Permissible.
- § 9206. Agreement Not to Assert Defenses Against Assignee; Modification of Sales Warranties Where Security Agreement Exists.
- § 9207. Rights and Duties When Collateral Is in Secured Party's Possession.
- § 9208. Request for Statement of Account or List of Collateral.
- § 9201. General Validity of Security Agreement.**

Except as otherwise provided by this code a security agreement is effective according to its terms between the parties, against purchasers of the collateral and against creditors. Nothing in this division validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, or the like or extends

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the application of any such statute or regulation to any transaction not otherwise subject thereto.

**§ 9202. Title to Collateral Immaterial.**

Each provision of this division with regard to rights, obligations and remedies applies whether title to collateral is in the secured party or in the debtor.

**§ 9203. Enforceability of Security Interest; Proceeds, Formal Requisites.**

(1) Subject to the provisions of Section 4208 on the security interest of a collecting bank and Section 9113 on a security interest arising under the division on sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless

(a) The collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; and

(b) Value has been given; and

(c) The debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subdivision (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by Section 9306.

(4) A transaction, although subject to this division, is also subject to the Uniform Consumer Credit Code (commencing with Section 1801.101 of the Civil Code) and in the case of conflict between the provisions of this division and that statute, the provisions of that statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

**§ 9204. After-Acquired Property; Future Advances.**



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(1) Except as provided in subdivision (2) a security agreement may provide that any or all obligations covered by the security agreement are to be secured by afteracquired collateral.

(2) No security interest attaches under an afteracquired property clause to consumer goods other than accessions (Section 9314) when given as additional security unless the debtor acquires rights in them within 10 days after the secured party gives value.

(3) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment (subdivision (1) of Section 9105).

**§ 9205. Use or Disposition of Collateral Without Accounting Permissible.**

A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee.

**§ 9206. Agreement Not to Assert Defenses Against Assignee; Modification of Sales Warranties Where Security Agreement Exists.**

(1) Subject to any statute or decision which establishes a different rule for buyers or lessees of consumer goods, an agreement by a buyer or lessee that he will not assert against an assignee any claim or defense which he may have against the seller or lessor is enforceable by an assignee who takes his assignment for value, in good faith and without notice of a claim or defense, except as to defenses of a type which may be asserted against a holder in due course of a negotiable instrument under the division on commercial paper (Division 3). A buyer who as part of one transaction signs both a negotiable instrument and a security agreement makes such an agreement.

(2) When a seller retains a purchase money security interest in goods the division on sales (Division 2) governs the sale and any disclaimer, limitation or modification of the seller's warranties.

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**§ 9207. Rights and Duties When Collateral Is in Secured Party's Possession.**

(1) A secured party must use reasonable care in the custody and preservation of collateral in his possession. In the case of an instrument or chattel paper reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Unless otherwise agreed, when collateral is in the secured party's possession

(a) Reasonable expenses (including the cost of any 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;

(b) The risk of accidental loss or damage is on the debtor to the extent of any deficiency in any effective insurance coverage;

(c) The secured party may hold as additional security any increase or profits (except money) received from the collateral, but money so received, unless remitted to the debtor, shall be applied in reduction of the secured obligation;

(d) The secured party must keep the collateral identifiable but fungible collateral may be comingled;

(e) The secured party may repledge the collateral upon terms which do not impair the debtor's right to redeem it.

(3) A secured party is liable for any loss caused by his failure to meet any obligation imposed by the preceding subdivisions but does not lose his security interest.

(4) A secured party may use or operate the collateral for the purpose of preserving the collateral or its value or pursuant to the order of a court of appropriate jurisdiction or, except in the case of consumer goods, in the manner and to the extent provided in the security agreement.

**§ 9208. Request for Statement of Account or List of Collateral.**

(1) A debtor may sign a statement indicating what he believes to be the aggregate amount of unpaid indebtedness as of a specified date and may send it to the secured party with a request that the statement be approved or corrected and returned to the debtor. When the security agreement or any other record kept by the secured party identifies the

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collateral a debtor may similarly request the secured party to approve or correct a list of the collateral.

(2) The secured party must comply with such a request within two weeks after receipt by sending a written correction or approval. If the secured party claims a security interest in all of a particular type of collateral owned by the debtor he may indicate that fact in his reply and need not approve or correct an itemized list of such collateral. If the secured party without reasonable excuse fails to comply he is liable for any loss caused to the debtor thereby; and if the debtor has properly included in his request a good faith statement of the obligation or a list of the collateral or both the secured party may claim a security interest only as shown in the statement against person misled by his failure to comply. If he no longer has an interest in the obligation or collateral at the time the request is received he must disclose the name and address of any successor in interest known to him and he is liable for any loss caused to the debtor as a result of failure to disclose. A successor in interest is not subject to this section until a request is received by him.

(3) A debtor is entitled to such a statement once every six months without charge. The secured party may require payment of a charge not exceeding ten dollars (\$10) for each additional statement furnished.

(4) If the secured party is an organization maintaining branches or branch offices the request herein provided for shall be sent to the branch or branch office at which the security transaction was entered into or at which the debtor is to make payment of his obligation, and the secured party's statement, unless otherwise specified, shall be deemed to apply only to indebtedness entered into at or payable to such branch or branch office and to any collateral taken by such branch or branch office.

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**CHAPTER 3**  
**RIGHTS OF THIRD PARTIES: PERFECTED AND**  
**UNPERFECTED SECURITY INTERESTS: RULES OF PRIORITY**

§ 9301. Persons Who Take Priority over Unperfected Security Interests;  
"Lien Creditor".

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- § 9302. When Filing Is Required to Perfect Security Interest; Security Interests to Which Filing Provisions of This Division Do Not Apply.
  - § 9303. When Security Interest Is Perfected; Continuity of Perfection.
  - § 9304. Perfection of Security Interest in Instruments, Documents, and Goods Covered By Documents; Perfection by Permissive Filing; Temporary Perfection Without Filing or Transfer of Possession.
  - § 9305. When Possession by Secured Party Perfects Security Interest Without Filing.
  - § 9306. *Proceeds*; Secured Party's Rights on Disposition of Collateral.
  - § 9307. Protection of Buyers of Goods.
  - § 9308. Purchase of Chattel Paper and Instruments; Priorities.
  - § 9309. Protection of Purchasers of Instruments and Documents.
  - § 9310. Priority of Certain Liens Arising by Operation of Law.
  - § 9311. Alienability of Debtor's Right's: Judicial Process.
  - § 9312. Priorities Among Conflicting Securities Interests in the Same Collateral.
  - § 9313. Not Adopted in California or Guam.
  - § 9314. Accessions.
  - § 9315. Priority When Goods Are Commingled or Processed.
  - § 9316. Priority Subject to Subordination.
  - § 9317. Secured Party Not Obligated on Contract of Debtor.
  - § 9318. Defenses Against Assignee; Modification of Contract After Notification of Assignment; Term Prohibiting Assignment Ineffective; Identification and Proof of Assignment.
- § 9301. Persons Who Take Priority over Unperfected Security Interests: Lien Creditor.**

(1) Except as otherwise provided in subdivision (2), an unperfected security interest is subordinate to the rights of

(a) Persons entitled to priority under Section 9312;

(b) A person who becomes a lien creditor before the security interest is perfected;

(c) In the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business to the extent

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that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

(d) In the case of accounts and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within 10 days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A *lien creditor* means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment.

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within 45 days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien.

**§ 9302. When Filing Is Required to Perfect Security Interest; Security Interests to Which Filing Provisions of This Division Do Not Apply.**

(1) A financing statement must be filed to perfect all security interests except the following;

(a) A security interest in collateral in possession of the secured party under Section 9305;

(b) A security interest temporarily perfected in instruments or documents without delivery under Section 9304 or in proceeds for a 10-day period under Section 9306;

(c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

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(d) A purchase money security interest in consumer goods; but filing is required for a motor vehicle or boat required to be registered;

(e) A security interest of a collecting bank (Section 4208) or arising under the division on sales (see Section 9113) or covered in subdivision (3) of this section;

(f) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

(g) A security interest in a deposit account. Such a security interest is perfected:

(1) As to a deposit account maintained with the secured party when the security agreement is executed;

(2) As to a deposit account not described in subparagraph (1) when notice thereof is given in writing to the organization with whom the deposit account is maintained.

(h) A security interest in or claim in or under any policy of insurance including unearned premiums. Such interest shall be perfected when notice thereof is given in writing to the insurer.

(2) If a secured party assigns a perfected security interest, no filing under this division is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this division is not necessary or effective to perfect a security interest in property subject to

(a) A statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this division for filing of the security interest; or

(b) The provisions of the Government Code which require registration of a vehicle or boat; but during any period in which collateral is inventory, held for sale by a person who is in the business of selling goods of that kind the filing provisions of this division (Chapter 4) apply to a security interest in that collateral created by him as debtor; or

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(c) A certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subdivision (2) of Section 9103).

(4) Compliance with a statute or treaty described in subdivision (3) is equivalent to the filing of a financing statement under this division and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in Section 9103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this division.

**§ 9303. When Security Interest Is Perfected; Continuity of Perfection.**

(1) A security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken. Such steps are specified in Sections 9302, 9304, 9305, and 9306. If such steps are taken before the security interest attaches, it is perfected at the time when it attaches.

(2) If a security interest is originally perfected in any way permitted under this division and is subsequently perfected in some other way under this division, without an intermediate period when it was unperfected, the security interest shall be deemed to be perfected continuously for the purposes of this division.

**§ 9304. Perfection of Security Interest in Instruments, Documents, and Goods Covered by Documents; Perfection by Permissive Filing; Temporary Perfection Without Filing or Transfer of Possession.**

(1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subdivision (4) and (5) of this section and subdivisions (2) and (3) of Section 9306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any

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security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor.

(a) Makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to subdivision (3) of Section 9312; or

(b) Delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the 21-day period in subdivision (4) and (5) perfection depends upon compliance with applicable provisions of this division.

**§ 9305. When Possession by Secured Party Perfects Security Interest Without Filing.**

A security interest in letters of credit and advices of credit (paragraph (2) (a) of Section 5116) goods, instruments, money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected



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by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this division. The security interest may be otherwise perfected as provided in this division before or after the period of possession by the secured party.

**§ 9306. Proceeds; Secured Party's Rights on Disposition of Collateral.**

(1) Proceeds includes whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Money, checks, deposit accounts, and the like are cash proceeds. All other proceeds are noncash proceeds.

(2) Except where this division otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof unless the disposition was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected 10 days after receipt of the proceeds by the debtor unless

(a) A filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds; or

(b) A filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds; or

(c) The security interest in the proceeds is perfected before the expiration of the 10-day period.

Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances permitted in this division for original collateral of the same type.