

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 303

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Nate Gentry

AN ACT

RELATING TO SECURED TRANSACTIONS UNDER THE UNIFORM COMMERCIAL
CODE; AMENDING AND ADDING DEFINITIONS; CLARIFYING WHEN A
SECURED PARTY HAS CONTROL OF ELECTRONIC CHATTEL PAPER;
CLARIFYING THE EFFECT ON FINANCING STATEMENTS BY A CHANGE IN
THE GOVERNING LAW; CLARIFYING FILING RULES; AMENDING, REPEALING
AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 14-16-3 NMSA 1978 (being Laws 2001,
Chapter 131, Section 3, as amended) is amended to read:

"14-16-3. SCOPE.--

~~[(a)]~~ A. Except as otherwise provided in Subsection
~~[(b)]~~ B, the Uniform Electronic Transactions Act applies to
electronic records and electronic signatures relating to a
transaction.

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 [~~(b)~~] B. The Uniform Electronic Transactions Act
2 does not apply to:

3 (1) a transaction to the extent it is governed
4 by:

5 [~~(i)~~] (a) a law governing the creation
6 and execution of wills, codicils or testamentary trusts;

7 [~~(ii)~~] (b) the Uniform Commercial Code,
8 other than [~~Sections 55-1-107 and 55-1-206~~] Section 55-1-306
9 NMSA 1978 and Chapter 55, Articles 2 and 2A NMSA 1978; or

10 [~~(iii)~~] (c) court orders, notices or
11 official court documents, including briefs, pleadings and other
12 records, required to be executed in connection with court
13 proceedings;

14 (2) a notice concerning:

15 [~~(i)~~] (a) the cancellation or
16 termination of utility services, including water, gas, heat or
17 power services;

18 [~~(ii)~~] (b) default, acceleration,
19 repossession, foreclosure, eviction or the right to cure, under
20 a credit agreement secured by or a rental agreement for a
21 primary residence of an individual; or

22 [~~(iii)~~] (c) the cancellation or
23 termination of health insurance or benefits or life insurance
24 or benefits, but not including annuities; or

25 (3) any document required to accompany any

underscored material = new
[bracketed material] = delete

1 transportation or handling of hazardous materials, pesticides
2 or other toxic or dangerous materials.

3 [~~(c)~~] C. The Uniform Electronic Transactions Act
4 applies to an electronic record or electronic signature
5 otherwise excluded from the application of that act under
6 Subsection [~~(b)~~] B of this section to the extent it is governed
7 by a law other than those specified in Subsection [~~(b)~~] B of
8 this section.

9 [~~(d)~~] D. A transaction subject to the Uniform
10 Electronic Transactions Act is also subject to other applicable
11 substantive law."

12 **SECTION 2.** Section 55-2A-103 NMSA 1978 (being Laws 1992,
13 Chapter 114, Section 10, as amended) is amended to read:

14 "55-2A-103. DEFINITIONS AND INDEX OF DEFINITIONS.--

15 (1) In this article unless the context otherwise
16 requires:

17 (a) "buyer in ordinary course of business"
18 means a person who, in good faith and without knowledge that
19 the sale to that person is in violation of the ownership rights
20 or security interest or leasehold interest of a third party in
21 the goods, buys in ordinary course from a person in the
22 business of selling goods of that kind, but does not include a
23 pawnbroker. "Buying" may be for cash or by exchange of other
24 property or on secured or unsecured credit and includes
25 acquiring goods or documents of title under a preexisting

.187538.4

underscored material = new
~~[bracketed material] = delete~~

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

4 (b) "cancellation" occurs when either party
5 puts an end to the lease contract for default by the other
6 party;

7 (c) "commercial unit" means such a unit of
8 goods as by commercial usage is a single whole for purposes of
9 lease and division of which materially impairs its character or
10 value on the market or in use. A commercial unit may be a
11 single article, as a machine, or a set of articles, as a suite
12 of furniture or a line of machinery, or a quantity, as a gross
13 or carload, or any other unit treated in use or in the relevant
14 market as a single whole;

15 (d) "conforming" goods or performance under a
16 lease contract means goods or performance that are in
17 accordance with the obligations under the lease contract;

18 (e) "consumer lease" means a lease that a
19 lessor regularly engaged in the business of leasing or selling
20 makes to a lessee who is an individual and who takes under the
21 lease primarily for a personal, family or household purpose;

22 (f) "fault" means wrongful act, omission,
23 breach or default;

24 (g) "finance lease" means a lease with respect
25 to which:

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 (i) the lessor does not select,
2 manufacture or supply the goods;

3 (ii) the lessor acquires the goods or
4 the right to possession and use of the goods in connection with
5 the lease; and

6 (iii) one of the following occurs:

7 (A) the lessee receives a copy of
8 the contract by which the lessor acquired the goods or the
9 right to possession and use of the goods before signing the
10 lease contract;

11 (B) the lessee's approval of the
12 contract by which the lessor acquired the goods or the right to
13 possession and use of the goods is a condition to effectiveness
14 of the lease contract;

15 (C) the lessee, before signing the
16 lease contract, receives an accurate and complete statement
17 designating the promises and warranties, and any disclaimers of
18 warranties, limitations or modifications of remedies, or
19 liquidated damages, including those of a third party, such as
20 the manufacturer of the goods, provided to the lessor by the
21 person supplying the goods in connection with or as part of the
22 contract by which the lessor acquired the goods or the right to
23 possession and use of the goods; or

24 (D) if the lease is not a consumer
25 lease, the lessor, before the lessee signs the lease contract,

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 informs the lessee in writing (a) of the identity of the person
2 supplying the goods to the lessor, unless the lessee has
3 selected that person and directed the lessor to acquire the
4 goods or the right to possession and use of the goods from that
5 person; (b) that the lessee is entitled under this article to
6 the promises and warranties, including those of any third
7 party, provided to the lessor by the person supplying the goods
8 in connection with or as part of the contract by which the
9 lessor acquired the goods or the right to possession and use of
10 the goods; and (c) that the lessee may communicate with the
11 person supplying the goods to the lessor and receive an
12 accurate and complete statement of those promises and
13 warranties, including any disclaimers and limitations of them
14 or of remedies;

15 (h) "goods" means all things that are movable
16 at the time of identification to the lease contract or are
17 fixtures (Section 55-2A-309 NMSA 1978), but the term does not
18 include money, documents, instruments, accounts, chattel paper,
19 general intangibles or minerals or the like, including oil and
20 gas, before extraction. The term also includes the unborn
21 young of animals;

22 (i) "installment lease contract" means a lease
23 contract that authorizes or requires the delivery of goods in
24 separate lots to be separately accepted, even though the lease
25 contract contains a clause "each delivery is a separate lease"

.187538.4

underscored material = new
~~[bracketed material] = delete~~

1 or its equivalent;

2 (j) "lease" means a transfer of the right to
3 possession and use of goods for a term in return for
4 consideration, but a sale, including a sale on approval or a
5 sale or return, or retention or creation of a security interest
6 is not a lease; unless the context clearly indicates otherwise,
7 the term includes a sublease;

8 (k) "lease agreement" means the bargain, with
9 respect to the lease, of the lessor and the lessee in fact as
10 found in their language or by implication from other
11 circumstances, including course of dealing or usage or trade or
12 course of performance as provided in this article; unless the
13 context clearly indicates otherwise, the term includes a
14 sublease agreement;

15 (l) "lease contract" means the total legal
16 obligation that results from the lease agreement as affected by
17 this article and any other applicable rules of law; unless the
18 context clearly indicates otherwise, the term includes a
19 sublease contract;

20 (m) "leasehold interest" means the interest of
21 the lessor or the lessee under a lease contract;

22 (n) "lessee" means a person who acquires the
23 right to possession and use of goods under a lease; unless the
24 context clearly indicates otherwise, the term includes a
25 sublessee;

.187538.4

1 (o) "lessee in ordinary course of business"
2 means a person who in good faith and without knowledge that the
3 lease to that person is in violation of the ownership rights or
4 security interest or leasehold interest of a third party in the
5 goods, leases in ordinary course from a person in the business
6 of selling or leasing goods of that kind, but does not include
7 a pawnbroker; "leasing" may be for cash or by exchange of other
8 property or on secured or unsecured credit and includes
9 acquiring goods or documents of title under a preexisting lease
10 contract but does not include a transfer in bulk or as security
11 for or in total or partial satisfaction of a money debt;

12 (p) "lessor" means a person who transfers the
13 right to possession and use of goods under a lease; unless the
14 context clearly indicates otherwise, the term includes a
15 sublessor;

16 (q) "lessor's residual interest" means the
17 lessor's interest in the goods after expiration, termination or
18 cancellation of the lease contract;

19 (r) "lien" means a charge against or interest
20 in goods to secure payment of a debt or performance of an
21 obligation, but the term does not include a security interest;

22 (s) "lot" means a parcel or a single article
23 that is the subject matter of a separate lease or delivery
24 whether or not it is sufficient to perform the lease contract;

25 (t) "merchant lessee" means a lessee that is a

1 merchant with respect to goods of the kind subject to the
2 lease;

3 (u) "present value" means the amount as of a
4 date certain of one or more sums payable in the future,
5 discounted to the date certain. The discount is determined by
6 the interest rate specified by the parties if the rate was not
7 manifestly unreasonable at the time the transaction was entered
8 into; otherwise, the discount is determined by a commercially
9 reasonable rate that takes into account the facts and
10 circumstances of each case at the time the transaction was
11 entered into;

12 (v) "purchase" includes taking by sale, lease,
13 mortgage, security interest, pledge, gift or any other
14 voluntary transaction creating an interest in goods;

15 (w) "sublease" means a lease of goods the
16 right to possession and use of which was acquired by the lessor
17 as a lessee under an existing lease;

18 (x) "supplier" means a person from whom a
19 lessor buys or leases goods to be leased under a finance lease;

20 (y) "supply contract" means a contract under
21 which a lessor buys or leases goods to be leased; and

22 (z) "termination" occurs when either party
23 pursuant to a power created by agreement or law puts an end to
24 the lease contract otherwise than for default.

25 (2) Other definitions applying to this article and

underscored material = new
[bracketed material] = delete

1 the sections in which they appear are:

2 "accessions" Section
3 55-2A-310 NMSA 1978;

4 "construction mortgage" Section
5 55-2A-309 NMSA 1978;

6 "encumbrance" Section
7 55-2A-309 NMSA 1978;

8 "fixtures" Section
9 55-2A-309 NMSA 1978;

10 "fixture filing" Section
11 55-2A-309 NMSA 1978; and

12 "purchase money lease" Section
13 55-2A-309 NMSA 1978.

14 (3) The following definitions in other articles
15 apply to this article:

16 "account" Paragraph (2)
17 of Subsection (a) of Section 55-9-102 NMSA 1978;

18 "between merchants" Subsection (3)
19 of Section 55-2-104 NMSA 1978;

20 "buyer" Paragraph (a)
21 of Subsection (1) of Section 55-2-103 NMSA 1978;

22 "chattel paper" Paragraph (11)
23 of Subsection (a) of Section 55-9-102 NMSA 1978;

24 "consumer goods" Paragraph (23)
25 of Subsection (a) of Section 55-9-102 NMSA 1978;

.187538.4

underscored material = new
[bracketed material] = delete

1 "document" Paragraph (30)
2 of Subsection (a) of Section 55-9-102 NMSA 1978;
3 "entrusting" Subsection (3)
4 of Section 55-2-403 NMSA 1978;
5 "general intangible" Paragraph (42)
6 of Subsection (a) of Section 55-9-102 NMSA 1978;
7 "instrument" Paragraph (47)
8 of Subsection (a) of Section 55-9-102 NMSA 1978;
9 "merchant" Subsection (1)
10 of Section 55-2-104 NMSA 1978;
11 "mortgage" Paragraph (55)
12 of Subsection (a) of Section 55-9-102 NMSA 1978;
13 "pursuant to commitment" Paragraph [~~68~~]
14 (69) of Subsection (a) of Section 55-9-102 NMSA 1978;
15 "receipt" Paragraph (c)
16 of Subsection (1) of Section 55-2-103 NMSA 1978;
17 "sale" Subsection (1)
18 of Section 55-2-106 NMSA 1978;
19 "sale on approval" Section
20 55-2-326 NMSA 1978;
21 "sale or return" Section
22 55-2-326 NMSA 1978; and
23 "seller" Paragraph (d)
24 of Subsection (1) of Section 55-2-103 NMSA 1978.

(4) In addition, Chapter 55, Article 1 NMSA 1978

underscored material = new
[bracketed material] = delete

1 contains general definitions and principles of construction and
2 interpretation applicable throughout this article."

3 SECTION 3. Section 55-9-102 NMSA 1978 (being Laws 2001,
4 Chapter 139, Section 2, as amended) is amended to read:

5 "55-9-102. DEFINITIONS AND INDEX OF DEFINITIONS.--

6 (a) In Chapter 55, Article 9 NMSA 1978:

7 (1) "accession" means goods that are
8 physically united with other goods in such a manner that the
9 identity of the original goods is not lost;

10 (2) "account", except as used in "account
11 for":

12 (A) means a right to payment of a
13 monetary obligation, whether or not earned by performance:

14 (i) for property that has been or
15 is to be sold, leased, licensed, assigned or otherwise disposed
16 of;

17 (ii) for services rendered or to be
18 rendered;

19 (iii) for a policy of insurance
20 issued or to be issued;

21 (iv) for a secondary obligation
22 incurred or to be incurred;

23 (v) for energy provided or to be
24 provided;

25 (vi) for the use or hire of a

.187538.4

underscoring material = new
~~[bracketed material]~~ = delete

1 vessel under a charter or other contract;

2 (vii) arising out of the use of a
3 credit or charge card or information contained on or for use
4 with the card; or

5 (viii) as winnings in a lottery or
6 other game of chance operated or sponsored by a state,
7 governmental unit of a state or person licensed or authorized
8 to operate the game by a state or governmental unit of a state;
9 and

10 (B) includes health-care-insurance
11 receivables; but

12 (C) does not include:

13 (i) rights to payment evidenced by
14 chattel paper or an instrument;

15 (ii) commercial tort claims;

16 (iii) deposit accounts;

17 (iv) investment property;

18 (v) letter-of-credit rights or
19 letters of credit; or

20 (vi) rights to payment for money or
21 funds advanced or sold, other than rights arising out of the
22 use of a credit or charge card or information contained on or
23 for use with the card;

24 (3) "account debtor" means a person obligated
25 on an account, chattel paper or general intangible. The term

.187538.4

1 does not include persons obligated to pay a negotiable
2 instrument, even if the instrument constitutes part of chattel
3 paper;

4 (4) "accounting", except as used in
5 "accounting for", means a record:

6 (A) authenticated by a secured party;

7 (B) indicating the aggregate unpaid
8 secured obligations as of a date not more than thirty-five days
9 earlier or thirty-five days later than the date of the record;
10 and

11 (C) identifying the components of the
12 obligations in reasonable detail;

13 (5) "agricultural lien" means an interest in
14 farm products:

15 (A) that secures payment or performance
16 of an obligation for:

17 (i) goods or services furnished in
18 connection with a debtor's farming operation; or

19 (ii) rent on real property leased
20 by a debtor in connection with its farming operation;

21 (B) that is created by statute in favor
22 of a person that:

23 (i) in the ordinary course of its
24 business furnished goods or services to a debtor in connection
25 with a debtor's farming operation; or

underscored material = new
[bracketed material] = delete

1 (ii) leased real property to a
2 debtor in connection with the debtor's farming operation; and

3 (C) whose effectiveness does not depend
4 on the person's possession of the personal property;

5 (6) "as-extracted collateral" means:

6 (A) oil, gas or other minerals that are
7 subject to a security interest that:

8 (i) is created by a debtor having
9 an interest in the minerals before extraction; and

10 (ii) attaches to the minerals as
11 extracted; or

12 (B) accounts arising out of the sale at
13 the wellhead or minehead of oil, gas or other minerals in which
14 the debtor had an interest before extraction;

15 (7) "authenticate" means to:

16 (A) sign; or

17 (B) ~~[execute or otherwise adopt a~~
18 ~~symbol, or encrypt or similarly process a record in whole or in~~
19 ~~part, with the present intent of the authenticating person to~~
20 ~~identify the person and adopt or accept a record]~~ with present
21 intent to adopt or accept a record or to attach to or logically
22 associate with the record an electronic sound, symbol or
23 process;

24 (8) "bank" means an organization that is
25 engaged in the business of banking and includes savings banks,

.187538.4

underscored material = new
[bracketed material] = delete

1 savings and loan associations, credit unions and trust
2 companies;

3 (9) "cash proceeds" means proceeds that are
4 money, checks, deposit accounts or the like;

5 (10) "certificate of title" means a
6 certificate of title with respect to which a statute provides
7 for the security interest in question to be indicated on the
8 certificate as a condition or result of the security interest's
9 obtaining priority over the rights of a lien creditor with
10 respect to the collateral. The term includes another record
11 maintained as an alternative to a certificate of title by the
12 governmental unit that issues certificates of title if a
13 statute permits the security interest in question to be
14 indicated on the record as a condition or result of the
15 security;

16 (11) "chattel paper" means a record or records
17 that evidence both a monetary obligation and a security
18 interest in specific goods, a security interest in specific
19 goods and software used in the goods, a security interest in
20 specific goods and license of software used in the goods, a
21 lease of specific goods or a lease of specific goods and
22 license of software used in the goods. In this paragraph,
23 "monetary obligation" means a monetary obligation secured by
24 the goods or owed under a lease of the goods and includes a
25 monetary obligation with respect to software used in the goods.

.187538.4

1 The term does not include:

2 (A) charters or other contracts
3 involving the use or hire of a vessel; or

4 (B) records that evidence a right to
5 payment arising out of the use of a credit or charge card or
6 information contained on or for use with the card. If a
7 transaction is evidenced by records that include an instrument
8 or series of instruments, the group of records taken together
9 constitutes chattel paper;

10 (12) "collateral" means the property subject
11 to a security interest or agricultural lien and includes:

12 (A) proceeds to which a security
13 interest attaches;

14 (B) accounts, chattel paper, payment
15 intangibles and promissory notes that have been sold; and

16 (C) goods that are the subject of a
17 consignment;

18 (13) "commercial tort claim" means a claim
19 arising in tort with respect to which:

20 (A) the claimant is an organization; or

21 (B) the claimant is an individual and
22 the claim:

23 (i) arose in the course of the
24 claimant's business or profession; and

25 (ii) does not include damages

1 arising out of personal injury to or the death of an
2 individual;

3 (14) "commodity account" means an account
4 maintained by a commodity intermediary in which a commodity
5 contract is carried for a commodity customer;

6 (15) "commodity contract" means a commodity
7 futures contract, an option on a commodity futures contract, a
8 commodity option or another contract if the contract or option
9 is:

10 (A) traded on or subject to the rules of
11 a board of trade that has been designated as a contract market
12 for such a contract pursuant to federal commodities laws; or

13 (B) traded on a foreign commodity board
14 of trade, exchange or market, and is carried on the books of a
15 commodity intermediary for a commodity customer;

16 (16) "commodity customer" means a person for
17 which a commodity intermediary carries a commodity contract on
18 its books;

19 (17) "commodity intermediary" means a person
20 that:

21 (A) is registered as a futures
22 commission merchant under federal commodities law; or

23 (B) in the ordinary course of its
24 business provides clearance or settlement services for a board
25 of trade that has been designated as a contract market pursuant

1 to federal commodities law;

2 (18) "communicate" means:

3 (A) to send a written or other tangible
4 record;

5 (B) to transmit a record by any means
6 agreed upon by the persons sending and receiving the record; or

7 (C) in the case of transmission of a
8 record to or by a filing office, to transmit a record by any
9 means prescribed by filing-office rule;

10 (19) "consignee" means a merchant to which
11 goods are delivered in a consignment;

12 (20) "consignment" means a transaction,
13 regardless of its form, in which a person delivers goods to a
14 merchant for the purpose of sale and:

15 (A) the merchant:

16 (i) deals in goods of that kind
17 under a name other than the name of the person making delivery;

18 (ii) is not an auctioneer; and

19 (iii) is not generally known by its
20 creditors to be substantially engaged in selling the goods of
21 others;

22 (B) with respect to each delivery, the
23 aggregate value of the goods is one thousand dollars (\$1,000)
24 or more at the time of delivery;

25 (C) the goods are not consumer goods

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 immediately before delivery; and

2 (D) the transaction does not create a
3 security interest that secures an obligation;

4 (21) "consignor" means a person that delivers
5 goods to a consignee in a consignment;

6 (22) "consumer debtor" means a debtor in a
7 consumer transaction;

8 (23) "consumer goods" means goods that are
9 used or bought for use primarily for personal, family or
10 household purposes;

11 (24) "consumer-goods transaction" means a
12 consumer transaction in which:

13 (A) an individual incurs an obligation
14 primarily for personal, family or household purposes; and

15 (B) a security interest in consumer
16 goods secures the obligation;

17 (25) "consumer obligor" means an obligor who
18 is an individual and who incurred the obligation as part of a
19 transaction entered into primarily for personal, family or
20 household purposes;

21 (26) "consumer transaction" means a
22 transaction in which:

23 (A) an individual incurs an obligation
24 primarily for personal, family or household purposes;

25 (B) a security interest secures the

underscoring material = new
[bracketed material] = delete

1 obligation; and

2 (C) the collateral is held or acquired
3 primarily for personal, family or household purposes. The term
4 includes consumer-goods transactions;

5 (27) "continuation statement" means an
6 amendment of a financing statement that:

7 (A) identifies, by its file number, the
8 initial financing statement to which it relates; and

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

12 (28) "debtor" means:

13 (A) a person having an interest, other
14 than a security interest or other lien, in the collateral,
15 whether or not the person is an obligor;

16 (B) a seller of accounts, chattel paper,
17 payment intangibles or promissory notes; or

18 (C) a consignee;

19 (29) "deposit account" means a demand, time,
20 savings, passbook or similar account maintained with a bank.

21 The term does not include investment property or accounts
22 evidenced by an instrument;

23 (30) "document" means a document of title or a
24 receipt of the type described in Subsection (b) of Section
25 55-7-201 NMSA 1978;

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 (31) "electronic chattel paper" means chattel
2 paper evidenced by a record or records consisting of
3 information stored in an electronic medium;

4 (32) "encumbrance" means a right, other than
5 an ownership interest, in real property. The term includes
6 mortgages and other liens on real property;

7 (33) "equipment" means goods other than
8 inventory, farm products or consumer goods;

9 (34) "farm products" means goods, other than
10 standing timber, with respect to which the debtor is engaged in
11 a farming operation and that are:

12 (A) crops grown, growing or to be grown,
13 including:

14 (i) crops produced on trees, vines
15 and bushes; and

16 (ii) aquatic goods produced in
17 aquacultural operations;

18 (B) livestock, born or unborn, including
19 aquatic goods produced in aquacultural operations;

20 (C) supplies used or produced in a
21 farming operation; or

22 (D) products of crops or livestock in
23 their unmanufactured states;

24 (35) "farming operation" means raising,
25 cultivating, propagating, fattening, grazing or any other

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 farming, livestock or aquacultural operation;

2 (36) "file number" means the number assigned
3 to an initial financing statement pursuant to Subsection (a) of
4 Section 55-9-519 NMSA 1978;

5 (37) "filing office" means an office
6 designated in Section 55-9-501 NMSA 1978 as the place to file a
7 financing statement;

8 (38) "filing-office rule" means a rule adopted
9 pursuant to Section 55-9-526 NMSA 1978;

10 (39) "financing statement" means a record or
11 records composed of an initial financing statement and any
12 filed record relating to the initial financing statement;

13 (40) "fixture filing" means the filing of a
14 financing statement covering goods that are or are to become
15 fixtures and satisfying Subsections (a) and (b) of Section
16 55-9-502 NMSA 1978. The term includes the filing of a
17 financing statement covering goods of a transmitting utility
18 that are or are to become fixtures;

19 (41) "fixtures" means goods that have become
20 so related to particular real property that an interest in them
21 arises under real property law;

22 (42) "general intangible" means any personal
23 property, including things in action, other than accounts,
24 chattel paper, commercial tort claims, deposit accounts,
25 documents, goods, instruments, investment property, letter-of-

.187538.4

1 credit rights, letters of credit, money and oil, gas or other
2 minerals before extraction. The term includes payment
3 intangibles and software;

4 (43) [Reserved];

5 (44) "goods" means all things that are movable
6 when a security interest attaches and:

7 (A) includes:

8 (i) fixtures;

9 (ii) standing timber that is to be
10 cut and removed under a conveyance or contract for sale;

11 (iii) the unborn young of animals;

12 (iv) crops grown, growing or to be
13 grown, even if the crops are produced on trees, vines or
14 bushes;

15 (v) manufactured homes; and

16 (vi) a computer program embedded in
17 goods and any supporting information provided in connection
18 with a transaction relating to the program if the program is
19 associated with the goods in such a manner that it customarily
20 is considered part of the goods, or by becoming the owner of
21 the goods, a person acquires a right to use the program in
22 connection with the goods; but

23 (B) does not include:

24 (i) a computer program embedded in
25 goods that consist solely of the medium in which the program is

1 embedded; or

2 (ii) accounts, chattel paper,
3 commercial tort claims, deposit accounts, documents, general
4 intangibles, instruments, investment property, letter-of-credit
5 rights, letters of credit, money or oil, gas or other minerals
6 before extraction;

7 (45) "governmental unit" means a subdivision,
8 agency, department, county, parish, municipality or other unit
9 of the government of the United States, a state or a foreign
10 country. The term includes an organization having a separate
11 corporate existence if the organization is eligible to issue
12 debt on which interest is exempt from income taxation under the
13 laws of the United States;

14 (46) "health-care-insurance receivable" means
15 an interest in or claim under a policy of insurance that is a
16 right to payment of a monetary obligation for health care goods
17 or services provided or to be provided;

18 (47) "instrument" means a negotiable
19 instrument or any other writing that evidences a right to the
20 payment of a monetary obligation, is not itself a security
21 agreement or lease and is of a type that in ordinary course of
22 business is transferred by delivery with any necessary
23 indorsement or assignment. The term does not include:

24 (A) investment property;

25 (B) letters of credit; or

1 (C) writings that evidence a right to
2 payment arising out of the use of a credit or charge card or
3 information contained on or for use with the card;

4 (48) "inventory" means goods, other than farm
5 products, that:

6 (A) are leased by a person as lessor;

7 (B) are held by a person for sale or
8 lease or to be furnished under a contract of service;

9 (C) are furnished by a person under a
10 contract of service; or

11 (D) consist of raw materials, work in
12 process or materials used or consumed in a business;

13 (49) "investment property" means a security,
14 whether certificated or uncertificated, security entitlement,
15 securities account, commodity contract or commodity account;

16 (50) "jurisdiction of organization", with
17 respect to a registered organization, means the jurisdiction
18 under whose law the organization is formed or organized;

19 (51) "letter-of-credit right" means a right to
20 payment or performance under a letter of credit, whether or not
21 the beneficiary has demanded or is at the time entitled to
22 demand payment or performance. The term does not include the
23 right of a beneficiary to demand payment or performance under a
24 letter of credit;

25 (52) "lien creditor" means:

underscoring material = new
~~[bracketed material] = delete~~

1 (A) a creditor that has acquired a lien
2 on the property involved by attachment, levy or the like;

3 (B) an assignee for benefit of creditors
4 from the time of assignment;

5 (C) a trustee in bankruptcy from the
6 date of the filing of the petition; or

7 (D) a receiver in equity from the time
8 of appointment;

9 (53) "manufactured home" means a structure,
10 transportable in one or more sections, which, in the traveling
11 mode, is eight body feet or more in width or forty body feet or
12 more in length, or, when erected on site, is three hundred
13 twenty or more square feet, and which is built on a permanent
14 chassis and designed to be used as a dwelling with or without a
15 permanent foundation when connected to the required utilities,
16 and includes the plumbing, heating, air-conditioning and
17 electrical systems contained therein. The term includes any
18 structure that meets all of the requirements of this paragraph
19 except the size requirements and with respect to which the
20 manufacturer voluntarily files a certification required by the
21 United States secretary of housing and urban development and
22 complies with the standards established under 42 USCA;

23 (54) "manufactured-home transaction" means a
24 secured transaction:

25 (A) that creates a purchase-money

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 security interest in a manufactured home, other than a
2 manufactured home held as inventory; or

3 (B) in which a manufactured home, other
4 than a manufactured home held as inventory, is the primary
5 collateral;

6 (55) "mortgage" means a consensual interest in
7 real property, including fixtures, that secures payment or
8 performance of an obligation;

9 (56) "new debtor" means a person that becomes
10 bound as debtor under Subsection (d) of Section 55-9-203 NMSA
11 1978 by a security agreement previously entered into by another
12 person;

13 (57) "new value" means:

14 (A) money;

15 (B) money's worth in property, services
16 or new credit; or

17 (C) release by a transferee of an
18 interest in property previously transferred to the transferee.
19 The term does not include an obligation substituted for another
20 obligation;

21 (58) "noncash proceeds" means proceeds other
22 than cash proceeds;

23 (59) "obligor" means a person that, with
24 respect to an obligation secured by a security interest in or
25 an agricultural lien on the collateral:

.187538.4

1 (A) owes payment or other performance of
2 the obligation;

3 (B) has provided property other than the
4 collateral to secure payment or other performance of the
5 obligation; or

6 (C) is otherwise accountable in whole or
7 in part for payment or other performance of the obligation.
8 The term does not include issuers or nominated persons under a
9 letter of credit;

10 (60) "original debtor", except as used in
11 Subsection (c) of Section 55-9-310 NMSA 1978, means a person
12 that, as debtor, entered into a security agreement to which a
13 new debtor has become bound under Subsection (d) of Section
14 55-9-203 NMSA 1978;

15 (61) "payment intangible" means a general
16 intangible under which the account debtor's principal
17 obligation is a monetary obligation;

18 (62) "person related to", with respect to an
19 individual, means:

20 (A) the spouse of the individual;

21 (B) a brother, brother-in-law, sister or
22 sister-in-law of the individual;

23 (C) an ancestor or lineal descendant of
24 the individual or the individual's spouse; or

25 (D) any other relative, by blood or

underscoring material = new
~~[bracketed material]~~ = delete

1 marriage, of the individual or the individual's spouse who
2 shares the same home with the individual;

3 (63) "person related to", with respect to an
4 organization, means:

5 (A) a person directly or indirectly
6 controlling, controlled by or under common control with the
7 organization;

8 (B) an officer or director of, or a
9 person performing similar functions with respect to, the
10 organization;

11 (C) an officer or director of, or a
12 person performing similar functions with respect to, a person
13 described in Subparagraph (A) of this paragraph;

14 (D) the spouse of an individual
15 described in Subparagraph (A), (B) or (C) of this paragraph; or

16 (E) an individual who is related by
17 blood or marriage to an individual described in Subparagraph
18 (A), (B), (C) or (D) of this paragraph and shares the same home
19 with the individual;

20 (64) "proceeds", except as used in Subsection
21 (b) of Section 55-9-609 NMSA 1978, means:

22 (A) whatever is acquired upon the sale,
23 lease, license, exchange or other disposition of collateral;

24 (B) whatever is collected on, or
25 distributed on account of, collateral;

.187538.4

underscored material = new
[bracketed material] = delete

1 (C) rights arising out of collateral;

2 (D) to the extent of the value of
3 collateral, claims arising out of the loss, nonconformity or
4 interference with the use of, defects or infringement of rights
5 in, or damage to, the collateral; or

6 (E) to the extent of the value of
7 collateral and to the extent payable to the debtor or the
8 secured party, insurance payable by reason of the loss or
9 nonconformity of, defects or infringement of rights in, or
10 damage to, the collateral;

11 (65) "promissory note" means an instrument
12 that evidences a promise to pay a monetary obligation, does not
13 evidence an order to pay and does not contain an acknowledgment
14 by a bank that the bank has received for deposit a sum of money
15 or funds;

16 (66) "proposal" means a record authenticated
17 by a secured party, which record includes the terms on which
18 the secured party is willing to accept collateral in full or
19 partial satisfaction of the obligation it secures pursuant to
20 Sections 55-9-620 through 55-9-622 NMSA 1978;

21 (67) "public-finance transaction" means a
22 secured transaction in connection with which:

23 (A) debt securities are issued;

24 (B) all or a portion of the securities
25 issued have an initial stated maturity of at least twenty

.187538.4

underscored material = new
[bracketed material] = delete

1 years; and

2 (C) the debtor, obligor, secured party,
3 account debtor or other person obligated on collateral, the
4 assignor or assignee of a secured obligation or the assignor or
5 assignee of a security interest is a state or a governmental
6 unit of a state;

7 (68) "public organic record" means a record
8 that is available to the public for inspection and is:

9 (A) a record consisting of the record
10 initially filed with or issued by a state or the United States
11 to form or organize an organization and any record filed with
12 or issued by the state or the United States that amends or
13 restates the initial record;

14 (B) an organic record of a business
15 trust consisting of the record initially filed with a state and
16 any record filed with the state that amends or restates the
17 initial record if a statute of the state governing business
18 trusts requires that the record be filed with the state; or

19 (C) a record consisting of legislation
20 enacted by the legislature of a state or the congress of the
21 United States that forms or organizes an organization; any
22 record amending the legislation; and any record filed with or
23 issued by the state or the United States that amends or
24 restates the name of the organization;

25 [~~67~~] (69) "pursuant to commitment", with

.187538.4

underscored material = new
[bracketed material] = delete

1 respect to an advance made or other value given by a secured
2 party, means pursuant to the secured party's obligation,
3 whether or not a subsequent event of default or other event not
4 within the secured party's control has relieved or may relieve
5 the secured party from its obligation;

6 ~~[(68)]~~ (70) "record", except as used in "for
7 record", "of record", "record or legal title" and "record
8 owner", means information that is inscribed on a tangible
9 medium or that is stored in an electronic or other medium and
10 is retrievable in perceivable form;

11 ~~[(69)]~~ (71) "registered organization" means an
12 organization formed or organized solely under the law of a
13 single state or the United States and ~~[as to which the state or~~
14 ~~the United States must maintain a public record showing the~~
15 ~~organization to have been organized]~~ by the filing of a public
16 organic record with the issuance of a public organic record or
17 the enactment of legislation by the state or the United States.
18 The term includes a business trust that is formed or organized
19 under the law of a single state if a statute of the state
20 governing business trusts requires that the business trust's
21 organic record be filed with the state;

22 ~~[(70)]~~ (72) "secondary obligor" means an
23 obligor to the extent that:

24 (A) the obligor's obligation is
25 secondary; or

.187538.4

1 (B) the obligor has a right of recourse
2 with respect to an obligation secured by collateral against the
3 debtor, another obligor or property of either;

4 [~~(71)~~] (73) "secured party" means:

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

8 (B) a person that holds an agricultural
9 lien;

10 (C) a consignor;

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

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

17 (F) a person that holds a security
18 interest arising under Section 55-2-401, Section 55-2-505,
19 Subsection (3) of Section 55-2-711, Subsection (5) of Section
20 55-2A-508, Section 55-4-210 or Section 55-5-118 NMSA 1978;

21 [~~(72)~~] (74) "security agreement" means an
22 agreement that creates or provides for a security interest;

23 [~~(73)~~] (75) "send", in connection with a
24 record or notification, means:

25 (A) to deposit in the mail, deliver for

underscored material = new
[bracketed material] = delete

1 transmission or transmit by any other usual means of
2 communication, with postage or cost of transmission provided
3 for, addressed to any address reasonable under the
4 circumstances; or

5 (B) to cause the record or notification
6 to be received within the time that it would have been received
7 if properly sent under Subparagraph (A) of this paragraph;

8 [~~(74)~~] (76) "software" means a computer
9 program and any supporting information provided in connection
10 with a transaction relating to the program. The term does not
11 include a computer program that is included in the definition
12 of goods;

13 [~~(75)~~] (77) "state" means a state of the
14 United States, the District of Columbia, Puerto Rico, the
15 United States Virgin Islands or any territory or insular
16 possession subject to the jurisdiction of the United States;

17 [~~(76)~~] (78) "supporting obligation" means a
18 letter-of-credit right or secondary obligation that supports
19 the payment or performance of an account, chattel paper, a
20 document, a general intangible, an instrument or investment
21 property;

22 [~~(77)~~] (79) "tangible chattel paper" means
23 chattel paper evidenced by a record or records consisting of
24 information that is inscribed on a tangible medium;

25 [~~(78)~~] (80) "termination statement" means an

underscored material = new
[bracketed material] = delete

1 amendment of a financing statement that:

2 (A) identifies, by its file number, the
3 initial financing statement to which it relates; and

4 (B) indicates either that it is a
5 termination statement or that the identified financing
6 statement is no longer effective; and

7 [~~(79)~~] (81) "transmitting utility" means a
8 person primarily engaged in the business of:

9 (A) operating a railroad, subway, street
10 railway or trolley bus;

11 (B) transmitting communications
12 electrically, electromagnetically or by light;

13 (C) transmitting goods by pipeline or
14 sewer; or

15 (D) transmitting or producing and
16 transmitting electricity, steam, gas or water.

17 (b) "Control", as provided in Section 55-7-106 NMSA
18 1978, and the following definitions in other articles apply to
19 this article:

20 "applicant" Section
21 55-5-102 NMSA 1978;

22 "beneficiary" Section
23 55-5-102 NMSA 1978;

24 "broker" Section
25 55-8-102 NMSA 1978;

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 "certificated security" Section
2 55-8-102 NMSA 1978;
3 "check" Section
4 55-3-104 NMSA 1978;
5 "clearing corporation" Section
6 55-8-102 NMSA 1978;
7 "contract for sale" Section
8 55-2-106 NMSA 1978;
9 "customer" Section
10 55-4-104 NMSA 1978;
11 "entitlement holder" Section
12 55-8-102 NMSA 1978;
13 "financial asset" Section
14 55-8-102 NMSA 1978;
15 "holder in due course" Section
16 55-3-302 NMSA 1978;
17 "issuer" (with respect to a letter of credit or
18 letter-of-credit right) Section
19 55-5-102 NMSA 1978;
20 "issuer" (with respect to a security) . . . Section
21 55-8-201 NMSA 1978;
22 "issuer" (with respect to documents
23 of title) Section
24 55-7-102 NMSA 1978;
25 "lease" Section

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

- 1 55-2A-103 NMSA 1978;
- 2 "lease agreement" Section
- 3 55-2A-103 NMSA 1978;
- 4 "lease contract" Section
- 5 55-2A-103 NMSA 1978;
- 6 "leasehold interest" Section
- 7 55-2A-103 NMSA 1978;
- 8 "lessee" Section
- 9 55-2A-103 NMSA 1978;
- 10 "lessee in ordinary course of business" . . Section
- 11 55-2A-103 NMSA 1978;
- 12 "lessor" Section
- 13 55-2A-103 NMSA 1978;
- 14 "lessor's residual interest" Section
- 15 55-2A-103 NMSA 1978;
- 16 "letter of credit" Section
- 17 55-5-102 NMSA 1978;
- 18 "merchant" Section
- 19 55-2-104 NMSA 1978;
- 20 "negotiable instrument" Section
- 21 55-3-104 NMSA 1978;
- 22 "nominated person" Section
- 23 55-5-102 NMSA 1978;
- 24 "note" Section
- 25 55-3-104 NMSA 1978;

.187538.4

underscored material = new
[bracketed material] = delete

1 "proceeds of a letter of credit" Section
2 55-5-114 NMSA 1978;
3 "prove" Section
4 55-3-103 NMSA 1978;
5 "sale" Section
6 55-2-106 NMSA 1978;
7 "securities account" Section
8 55-8-501 NMSA 1978;
9 "securities intermediary" Section
10 55-8-102 NMSA 1978;
11 "security" Section
12 55-8-102 NMSA 1978;
13 "security certificate" Section
14 55-8-102 NMSA 1978;
15 "security entitlement" Section
16 55-8-102 NMSA 1978; and
17 "uncertificated security" Section
18 55-8-102 NMSA 1978.

19 (c) Chapter 12, Article 2A and Chapter 55, Article
20 1 NMSA 1978 contain general definitions and principles of
21 construction and interpretation applicable throughout Chapter
22 55, Article 9 NMSA 1978."

23 SECTION 4. Section 55-9-105 NMSA 1978 (being Laws 2001,
24 Chapter 130, Section 5) is amended to read:

25 "55-9-105. CONTROL OF ELECTRONIC CHATTEL PAPER.--A

.187538.4

underscored material = new
[bracketed material] = delete

1 secured party has control of electronic chattel paper if a
2 system employed for evidencing the transfer of interests in the
3 chattel paper reliably establishes the secured party as the
4 person to which the chattel paper was assigned and the record
5 or records comprising the chattel paper are created, stored and
6 assigned in such a manner that:

7 (a) a single authoritative copy of the record or
8 records exists which is unique, identifiable and, except as
9 otherwise provided in Subsections (d) through (f) of this
10 section, unalterable;

11 (b) the authoritative copy identifies the secured
12 party as the assignee of the record or records;

13 (c) the authoritative copy is communicated to and
14 maintained by the secured party or its designated custodian;

15 (d) copies or [~~revisions~~] amendments that add or
16 change an identified assignee of the authoritative copy can be
17 made only with the [~~participation~~] consent of the secured
18 party;

19 (e) each copy of the authoritative copy and any
20 copy of a copy is readily identifiable as a copy that is not
21 the authoritative copy; and

22 (f) any [~~revision~~] amendment of the authoritative
23 copy is readily identifiable as [~~an~~] authorized or unauthorized
24 [~~revision~~]."

25 SECTION 5. Section 55-9-307 NMSA 1978 (being Laws 2001,

.187538.4

underscored material = new
[bracketed material] = delete

1 Chapter 139, Section 27) is amended to read:

2 "55-9-307. LOCATION OF DEBTOR.--

3 (a) In this section, "place of business" means a
4 place where a debtor conducts its affairs.

5 (b) Except as otherwise provided in this section,
6 the following rules determine a debtor's location:

7 (1) a debtor who is an individual is located
8 at the individual's principal residence;

9 (2) a debtor that is an organization and has
10 only one place of business is located at its place of business;
11 and

12 (3) a debtor that is an organization and has
13 more than one place of business is located at its chief
14 executive office.

15 (c) Subsection (b) of this section applies only if
16 a debtor's residence, place of business or chief executive
17 office, as applicable, is located in a jurisdiction whose law
18 generally requires information concerning the existence of a
19 nonpossessory security interest to be made generally available
20 in a filing, recording or registration system as a condition or
21 result of the security interest's obtaining priority over the
22 rights of a lien creditor with respect to the collateral. If
23 Subsection (b) of this section does not apply, the debtor is
24 located in the District of Columbia.

25 (d) A person that ceases to exist, have a residence

.187538.4

1 or have a place of business continues to be located in the
2 jurisdiction specified by Subsections (b) and (c) of this
3 section.

4 (e) A registered organization that is organized
5 under the law of a state is located in that state.

6 (f) Except as otherwise provided in Subsection (i)
7 of this section, a registered organization that is organized
8 under the law of the United States and a branch or agency of a
9 bank that is not organized under the law of the United States
10 or a state are located:

11 (1) in the state that the law of the United
12 States designates if the law designates a state of location;

13 (2) in the state that the registered
14 organization, branch or agency designates if the law of the
15 United States authorizes the registered organization, branch or
16 agency to designate its state of location, including by
17 designating its main office, home office or other comparable
18 office; or

19 (3) in the District of Columbia if neither
20 Paragraph (1) nor Paragraph (2) of this subsection applies.

21 (g) A registered organization continues to be
22 located in the jurisdiction specified by Subsection (e) or (f)
23 of this section notwithstanding:

24 (1) the suspension, revocation, forfeiture or
25 lapse of the registered organization's status as such in its

1 jurisdiction of organization; or

2 (2) the dissolution, winding up or
3 cancellation of the existence of the registered organization.

4 (h) The United States is located in the District of
5 Columbia.

6 (i) A branch or agency of a bank that is not
7 organized under the law of the United States or a state is
8 located in the state in which the branch or agency is licensed
9 if all branches and agencies of the bank are licensed in only
10 one state.

11 (j) A foreign air carrier under the Federal
12 Aviation Act of 1958, as amended, is located at the designated
13 office of the agent upon which service of process may be made
14 on behalf of the carrier.

15 (k) This section applies only for purposes of
16 Sections 55-9-301 through 55-9-342 NMSA 1978."

17 **SECTION 6.** Section 55-9-311 NMSA 1978 (being Laws 2001,
18 Chapter 139, Section 31) is amended to read:

19 "55-9-311. PERFECTION OF SECURITY INTERESTS IN PROPERTY
20 SUBJECT TO CERTAIN STATUTES, REGULATIONS AND TREATIES.--

21 (a) Except as otherwise provided in Subsection (d)
22 of this section, the filing of a financing statement is not
23 necessary or effective to perfect a security interest in
24 property subject to:

25 (1) a statute, regulation or treaty of the

.187538.4

underscored material = new
[bracketed material] = delete

1 United States whose requirements for a security interest's
2 obtaining priority over the rights of a lien creditor with
3 respect to the property preempt Subsection (a) of Section
4 55-9-310 NMSA 1978;

5 (2) the provisions of Chapter 66 NMSA 1978; or

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

11 (b) Compliance with the requirements of a statute,
12 regulation or treaty described in Subsection (a) of this
13 section for obtaining priority over the rights of a lien
14 creditor is equivalent to the filing of a financing statement
15 under Chapter 55, Article 9 NMSA 1978. Except as otherwise
16 provided in Subsection (d) of this section and in Section
17 55-9-313 and Subsections (d) and (e) of Section 55-9-316 NMSA
18 1978 for goods covered by a certificate of title, a security
19 interest in property subject to a statute, regulation or treaty
20 described in Subsection (a) of this section may be perfected
21 only by compliance with those requirements, and a security
22 interest so perfected remains perfected notwithstanding a
23 change in the use or transfer of possession of the collateral.

24 (c) Except as otherwise provided in Subsection (d)
25 of this section and Subsections (d) and (e) of Section 55-9-316

.187538.4

underscored material = new
[bracketed material] = delete

1 NMSA 1978, duration and renewal of perfection of a security
2 interest perfected by compliance with the requirements
3 prescribed by a statute, regulation or treaty described in
4 Subsection (a) of this section are governed by the statute,
5 regulation or treaty. In other respects, the security interest
6 is subject to Chapter 55, Article 9 NMSA 1978.

7 (d) During any period in which collateral subject
8 to a statute specified in Paragraph (2) of Subsection (a) of
9 this section is inventory held for sale or lease by a person or
10 leased by that person as lessor and that person is in the
11 business of selling goods of that kind, this section does not
12 apply to a security interest in that collateral created by that
13 person."

14 SECTION 7. Section 55-9-316 NMSA 1978 (being Laws 2001,
15 Chapter 139, Section 36) is amended to read:

16 "55-9-316. [~~CONTINUED PERFECTION OF SECURITY INTEREST~~
17 ~~FOLLOWING]~~ EFFECTS OF CHANGE IN GOVERNING LAW.--

18 (a) A security interest perfected pursuant to the
19 law of the jurisdiction designated in Subsection (1) of Section
20 55-9-301 or Subsection (c) of Section 55-9-305 NMSA 1978
21 remains perfected until the earliest of:

22 (1) the time perfection would have ceased
23 under the law of that jurisdiction;

24 (2) the expiration of four months after a
25 change of the debtor's location to another jurisdiction; or

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 (3) the expiration of one year after a
2 transfer of collateral to a person that thereby becomes a
3 debtor and is located in another jurisdiction.

4 (b) If a security interest described in Subsection
5 (a) of this section becomes perfected under the law of the
6 other jurisdiction before the earliest time or event described
7 in that subsection, it remains perfected thereafter. If the
8 security interest does not become perfected under the law of
9 the other jurisdiction before the earliest time or event, it
10 becomes unperfected and is deemed never to have been perfected
11 as against a purchaser of the collateral for value.

12 (c) A possessory security interest in collateral,
13 other than goods covered by a certificate of title and as-
14 extracted collateral consisting of goods, remains continuously
15 perfected if:

16 (1) the collateral is located in one
17 jurisdiction and subject to a security interest perfected under
18 the law of that jurisdiction;

19 (2) thereafter the collateral is brought into
20 another jurisdiction; and

21 (3) upon entry into the other jurisdiction,
22 the security interest is perfected under the law of the other
23 jurisdiction.

24 (d) Except as otherwise provided in Subsection (e)
25 of this section, a security interest in goods covered by a

underscoring material = new
~~[bracketed material]~~ = delete

1 certificate of title which is perfected by any method under the
2 law of another jurisdiction when the goods become covered by a
3 certificate of title from this state remains perfected until
4 the security interest would have become unperfected under the
5 law of the other jurisdiction had the goods not become so
6 covered.

7 (e) A security interest described in Subsection (d)
8 of this section becomes unperfected as against a purchaser of
9 the goods for value and is deemed never to have been perfected
10 as against a purchaser of the goods for value if the applicable
11 requirements for perfection under Subsection (b) of Section
12 55-9-311 or Section 55-9-313 NMSA 1978 are not satisfied before
13 the earlier of:

14 (1) the time the security interest would have
15 become unperfected under the law of the other jurisdiction had
16 the goods not become covered by a certificate of title from
17 this state; or

18 (2) the expiration of four months after the
19 goods had become so covered.

20 (f) A security interest in deposit accounts,
21 letter-of-credit rights or investment property which is
22 perfected under the law of the bank's jurisdiction, the
23 issuer's jurisdiction, a nominated person's jurisdiction, the
24 securities intermediary's jurisdiction or the commodity
25 intermediary's jurisdiction, as applicable, remains perfected

.187538.4

underscored material = new
[bracketed material] = delete

1 until the earlier of:

2 (1) the time the security interest would have
3 become unperfected under the law of that jurisdiction; or

4 (2) the expiration of four months after a
5 change of the applicable jurisdiction to another jurisdiction.

6 (g) If a security interest described in Subsection
7 (f) of this section becomes perfected under the law of the
8 other jurisdiction before the earlier of the time or the end of
9 the period described in that subsection, it remains perfected
10 thereafter. If the security interest does not become perfected
11 under the law of the other jurisdiction before the earlier of
12 that time or the end of that period, it becomes unperfected and
13 is deemed never to have been perfected as against a purchaser
14 of the collateral for value.

15 (h) The following rules apply to collateral to
16 which a security interest attaches within four months after the
17 debtor changes its location to another jurisdiction:

18 (1) a financing statement filed before the
19 change pursuant to the law of the jurisdiction designated in
20 Paragraph (1) of Section 55-9-301 or Subsection (c) of Section
21 55-9-305 NMSA 1978 is effective to perfect a security interest
22 in the collateral if the financing statement would have been
23 effective to perfect a security interest in the collateral had
24 the debtor not changed its location; and

25 (2) if a security interest perfected by a

.187538.4

underscored material = new
[bracketed material] = delete

1 financing statement that is effective under Paragraph (1) of
2 this subsection becomes perfected under the law of the other
3 jurisdiction before the earlier of the time the financing
4 statement would have become ineffective under the law of the
5 jurisdiction designated in Paragraph (1) of Section 55-9-301 or
6 Subsection (c) of Section 55-9-305 NMSA 1978 or the expiration
7 of the four-month period, it remains perfected thereafter. If
8 the security interest does not become perfected under the law
9 of the other jurisdiction before the earlier time or event, it
10 becomes unperfected and is deemed never to have been perfected
11 as against a purchaser of the collateral for value.

12 (i) If a financing statement naming an original
13 debtor is filed pursuant to the law of the jurisdiction
14 designated in Paragraph (1) of Section 55-9-301 or Subsection
15 (c) of Section 55-9-305 NMSA 1978 and the new debtor is located
16 in another jurisdiction, the following rules apply:

17 (1) the financing statement is effective to
18 perfect a security interest in collateral acquired by the new
19 debtor before, and within four months after, the new debtor
20 becomes bound under Subsection (d) of Section 55-9-203 NMSA
21 1978 if the financing statement would have been effective to
22 perfect a security interest in the collateral had the
23 collateral been acquired by the original debtor; and

24 (2) a security interest perfected by the
25 financing statement that becomes perfected under the law of the

.187538.4

underscoring material = new
~~[bracketed material]~~ = delete

1 other jurisdiction before the earlier of the time the financing
2 statement would have become ineffective under the law of the
3 jurisdiction designated in Paragraph (1) of Section 55-9-301 or
4 Subsection (c) of Section 55-9-305 NMSA 1978 or the expiration
5 of the four-month period remains perfected thereafter. A
6 security interest that is perfected by the financing statement
7 but that does not become perfected under the law of the other
8 jurisdiction before the earlier time or event becomes
9 unperfected and is deemed never to have been perfected as
10 against a purchaser of the collateral for value."

11 SECTION 8. Section 55-9-317 NMSA 1978 (being Laws 2001,
12 Chapter 139, Section 37, as amended) is amended to read:

13 "55-9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE
14 OF SECURITY INTEREST OR AGRICULTURAL LIEN.--

15 (a) A security interest or agricultural lien is
16 subordinate to the rights of:

17 (1) a person entitled to priority under
18 Section 55-9-322 NMSA 1978; and

19 (2) except as otherwise provided in Subsection
20 (e) of this section, a person that becomes a lien creditor
21 before the earlier of the time:

22 (A) the security interest or
23 agricultural lien is perfected; or

24 (B) one of the conditions specified in
25 Paragraph (3) of Subsection (b) of Section 55-9-203 NMSA 1978

.187538.4

underscored material = new
[bracketed material] = delete

1 is met and a financing statement covering the collateral is
2 filed.

3 (b) Except as otherwise provided in Subsection (e)
4 of this section, a buyer, other than a secured party, of
5 tangible chattel paper, tangible documents, goods, instruments
6 or a security certificate takes free of a security interest or
7 agricultural lien if the buyer gives value and receives
8 delivery of the collateral without knowledge of the security
9 interest or agricultural lien and before it is perfected.

10 (c) Except as otherwise provided in Subsection (e)
11 of this section, a lessee of goods takes free of a security
12 interest or agricultural lien if the lessee gives value and
13 receives delivery of the collateral without knowledge of the
14 security interest or agricultural lien and before it is
15 perfected.

16 (d) A licensee of a general intangible or a buyer,
17 other than a secured party, of [~~accounts, electronic chattel~~
18 ~~paper, electronic documents, general intangibles or investment~~
19 ~~property~~] collateral other than tangible chattel paper,
20 tangible documents, goods, instruments or a certificated
21 security takes free of a security interest if the licensee or
22 buyer gives value without knowledge of the security interest
23 and before it is perfected.

24 (e) Except as otherwise provided in Sections
25 55-9-320 and 55-9-321 NMSA 1978, if a person files a financing

.187538.4

underscored material = new
[bracketed material] = delete

1 statement with respect to a purchase-money security interest
2 before or within twenty days after the debtor receives delivery
3 of the collateral, the security interest takes priority over
4 the rights of a buyer, lessee or lien creditor that arise
5 between the time the security interest attaches and the time of
6 filing."

7 SECTION 9. Section 55-9-326 NMSA 1978 (being Laws 2001,
8 Chapter 139, Section 46) is amended to read:

9 "55-9-326. PRIORITY OF SECURITY INTERESTS CREATED BY NEW
10 DEBTOR.--

11 (a) Subject to Subsection (b) of this section, a
12 security interest that is created by a new debtor ~~[which is]~~ in
13 collateral in which the new debtor has or acquires rights and
14 is perfected solely by a filed financing statement that ~~[is~~
15 ~~effective solely under Section 55-9-508 NMSA 1978 in collateral~~
16 ~~in which a new debtor has or acquires rights]~~ would be
17 ineffective to perfect the security interest but for the
18 application of Paragraph (1) of Subsection (i) of Section
19 55-9-316 or Section 55-9-508 NMSA 1978 is subordinate to a
20 security interest in the same collateral which is perfected
21 other than by such a filed financing statement ~~[that is~~
22 ~~effective solely under Section 55-9-508 NMSA 1978]~~.

23 (b) The other provisions of Sections 55-9-301
24 through 55-9-342 NMSA 1978 determine the priority among
25 conflicting security interests in the same collateral perfected

.187538.4

underscored material = new
[bracketed material] = delete

1 by filed financing statements [~~that are effective solely under~~
2 ~~Section 55-9-508 NMSA 1978~~] described in Subsection (a) of this
3 section. However, if the security agreements to which a new
4 debtor became bound as debtor were not entered into by the same
5 original debtor, the conflicting security interests rank
6 according to priority in time of the new debtor having become
7 bound."

8 SECTION 10. Section 55-9-406 NMSA 1978 (being Laws 2001,
9 Chapter 139, Section 68) is amended to read:

10 "55-9-406. DISCHARGE OF ACCOUNT DEBTOR--NOTIFICATION OF
11 ASSIGNMENT--IDENTIFICATION AND PROOF OF ASSIGNMENT--
12 RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT
13 INTANGIBLES AND PROMISSORY NOTES INEFFECTIVE.--

14 (a) Subject to Subsections (b) through (i) of this
15 section, an account debtor on an account, chattel paper or a
16 payment intangible may discharge its obligation by paying the
17 assignor until, but not after, the account debtor receives a
18 notification, authenticated by the assignor or the assignee,
19 that the amount due or to become due has been assigned and that
20 payment is to be made to the assignee. After receipt of the
21 notification, the account debtor may discharge its obligation
22 by paying the assignee and may not discharge the obligation by
23 paying the assignor.

24 (b) Subject to Subsection (h) of this section,
25 notification is ineffective under Subsection (a) of this

.187538.4

1 section:

2 (1) if it does not reasonably identify the
3 rights assigned;

4 (2) to the extent that an agreement between an
5 account debtor and a seller of a payment intangible limits the
6 account debtor's duty to pay a person other than the seller and
7 the limitation is effective under law other than Chapter 55,
8 Article 9 NMSA 1978; or

9 (3) at the option of an account debtor, if the
10 notification notifies the account debtor to make less than the
11 full amount of any installment or other periodic payment to the
12 assignee, even if:

13 (A) only a portion of the account,
14 chattel paper or payment intangible has been assigned to that
15 assignee;

16 (B) a portion has been assigned to
17 another assignee; or

18 (C) the account debtor knows that the
19 assignment to that assignee is limited.

20 (c) Subject to Subsection (h) of this section, if
21 requested by the account debtor, an assignee shall seasonably
22 furnish reasonable proof that the assignment has been made.

23 Unless the assignee complies, the account debtor may discharge
24 its obligation by paying the assignor, even if the account
25 debtor has received a notification under Subsection (a) of this

.187538.4

underscored material = new
[bracketed material] = delete

1 section.

2 (d) Except as otherwise provided in Subsection (e)
3 of this section and Sections 55-2A-303 and 55-9-407 NMSA 1978,
4 and subject to Subsection (h) of this section, a term in an
5 agreement between an account debtor and an assignor or in a
6 promissory note is ineffective to the extent that it:

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

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

19 (e) Subsection (d) of this section does not apply
20 to the sale of a payment intangible or promissory note, other
21 than a sale pursuant to a disposition under Section 55-9-610
22 NMSA 1978 or an acceptance of collateral under Section 55-9-620
23 NMSA 1978.

24 (f) Except as otherwise provided in Sections
25 55-2A-303 and 55-9-407 NMSA 1978 and subject to Subsections (h)

.187538.4

1 and (i) of this section, a rule of law, statute or regulation
2 that prohibits, restricts or requires the consent of a
3 government, governmental body or official, or account debtor to
4 the assignment or transfer of, or creation of a security
5 interest in, an account or chattel paper is ineffective to the
6 extent that the rule of law, statute or regulation:

7 (1) prohibits, restricts or requires the
8 consent of the government, governmental body or official, or
9 account debtor to the assignment or transfer of, or the
10 creation, attachment, perfection or enforcement of a security
11 interest in the account or chattel paper; or

12 (2) provides that the assignment or transfer
13 or the creation, attachment, perfection or enforcement of the
14 security interest may give rise to a default, breach, right of
15 recoupment, claim, defense, termination, right of termination
16 or remedy under the account or chattel paper.

17 (g) Subject to Subsection (h) of this section, an
18 account debtor may not waive or vary its option under Paragraph
19 (3) of Subsection (b) of this section.

20 (h) This section is subject to law other than
21 Chapter 55, Article 9 NMSA 1978 which establishes a different
22 rule for an account debtor who is an individual and who
23 incurred the obligation primarily for personal, family or
24 household purposes.

25 (i) This section does not apply to an assignment of

underscoring material = new
[bracketed material] = delete

1 a health-care-insurance receivable.

2 (j) This section is subject to laws other than
3 Chapter 55, Article 9 NMSA 1978 to the extent that those laws
4 prohibit or restrict the assignment, transfer of or creation of
5 a security interest in benefits, compensation, any other
6 account or chattel paper."

7 SECTION 11. Section 55-9-408 NMSA 1978 (being Laws 2001,
8 Chapter 139, Section 70) is amended to read:

9 "55-9-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY
10 NOTES, HEALTH-CARE-INSURANCE RECEIVABLES AND CERTAIN GENERAL
11 INTANGIBLES INEFFECTIVE.--

12 (a) Except as otherwise provided in Subsection (b)
13 of this section, a term in a promissory note or in an agreement
14 between an account debtor and a debtor, which relates to a
15 health-care-insurance receivable or a general intangible,
16 including a contract, permit, license or franchise, and which
17 [~~term~~] prohibits, restricts or requires the consent of the
18 person obligated on the promissory note or the account debtor
19 to the assignment or transfer of, or creation, attachment or
20 perfection of a security interest in, the promissory note,
21 health-care-insurance receivable or general intangible, is
22 ineffective to the extent that the term:

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

25 (2) provides that the assignment or transfer

underscoring material = new
~~[bracketed material]~~ = delete

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

6 (b) Subsection (a) of this section applies to a
7 security interest in a payment intangible or promissory note
8 only if the security interest arises out of a sale of the
9 payment intangible or promissory note other than a sale
10 pursuant to a disposition under Section 55-9-610 NMSA 1978 or
11 an acceptance of collateral under Section 55-9-620 NMSA 1978.

12 (c) A rule of law, statute or regulation that
13 prohibits, restricts or requires the consent of a government,
14 governmental body or official, person obligated on a promissory
15 note or account debtor to the assignment or transfer of, or
16 creation of a security interest in, a promissory note, health-
17 care-insurance receivable or general intangible, including a
18 contract, permit, license or franchise between an account
19 debtor and a debtor, is ineffective to the extent that the rule
20 of law, statute or regulation:

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

23 (2) provides that the assignment or transfer
24 or the creation, attachment or perfection of the security
25 interest may give rise to a default, breach, right of

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 recoupment, claim, defense, termination, right of termination
2 or remedy under the promissory note, health-care-insurance
3 receivable or general intangible.

4 (d) To the extent that a term in a promissory note
5 or in an agreement between an account debtor and a debtor which
6 relates to a health-care-insurance receivable or general
7 intangible or a rule of law, statute or regulation described in
8 Subsection (c) of this section would be effective under law
9 other than Chapter 55, Article 9 NMSA 1978 but is ineffective
10 under Subsection (a) or (c) of this section, the creation,
11 attachment or perfection of a security interest in the
12 promissory note, health-care-insurance receivable or general
13 intangible:

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

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

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

23 (4) does not entitle the secured party to use
24 or assign the debtor's rights under the promissory note,
25 health-care-insurance receivable or general intangible,

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 including any related information or materials furnished to the
2 debtor in the transaction giving rise to the promissory note,
3 health-care-insurance receivable or general intangible;

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

8 (6) does not entitle the secured party to
9 enforce the security interest in the promissory note, health-
10 care-insurance receivable or general intangible. The
11 provisions of this section shall prevail over an inconsistent
12 provision of an existing or future statute or rule of this
13 state, unless the inconsistent provision is set forth in a
14 statute of this state that refers expressly to this section and
15 states that the inconsistent provision shall prevail over the
16 provisions of this section."

17 SECTION 12. Section 55-9-502 NMSA 1978 (being Laws 2001,
18 Chapter 139, Section 73) is amended to read:

19 "55-9-502. CONTENTS OF FINANCING STATEMENT--RECORD OF
20 MORTGAGE AS FINANCING STATEMENT--TIME OF FILING FINANCING
21 STATEMENT.--

22 (a) Subject to Subsection (b) of this section, a
23 financing statement is sufficient only if it:

24 (1) provides the name of the debtor;

25 (2) provides the name of the secured party or

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 a representative of the secured party; and

2 (3) indicates the collateral covered by the
3 financing statement.

4 (b) Except as otherwise provided in Subsection (b)
5 of Section 55-9-501 NMSA 1978, to be sufficient a financing
6 statement that covers as-extracted collateral or timber to be
7 cut, or which is filed as a fixture filing and covers goods
8 that are or are to become fixtures, must satisfy Subsection (a)
9 of this section and also:

10 (1) indicate that it covers this type of
11 collateral;

12 (2) indicate that it is to be filed for record
13 in the real property records;

14 (3) provide a description of the real property
15 to which the collateral is related sufficient to give
16 constructive notice of a mortgage pursuant to the laws of this
17 state if the description were contained in a record of the
18 mortgage of the real property; and

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

22 (c) A record of a mortgage is effective, from the
23 date it is filed for record, as a financing statement filed as
24 a fixture filing or as a financing statement covering as-
25 extracted collateral or timber to be cut only if:

.187538.4

underscored material = new
[bracketed material] = delete

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

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

7 (3) the record satisfies the requirements for
8 a financing statement in this section [~~other than an~~
9 ~~indication~~] but:

10 (A) the record need not indicate that it
11 is to be filed for record in the real property records; and

12 (B) the record sufficiently provides the
13 name of a debtor who is an individual if it provides the
14 individual name of the debtor or the surname and first personal
15 name of the debtor, even if the debtor is an individual to whom
16 Paragraph (4) of Subsection (a) of Section 55-9-503 NMSA 1978
17 applies; and

18 (4) the record is recorded.

19 (d) A financing statement may be filed before a
20 security agreement is made or a security interest otherwise
21 attaches."

22 SECTION 13. Section 55-9-503 NMSA 1978 (being Laws 2001,
23 Chapter 139, Section 74) is amended to read:

24 "55-9-503. NAME OF DEBTOR AND SECURED PARTY.--

25 (a) A financing statement sufficiently provides the

.187538.4

underscored material = new
[bracketed material] = delete

1 name of the debtor:

2 (1) except as otherwise provided in Paragraph
3 (3) of this section, if the debtor is a registered organization
4 or the collateral is held in a trust that is a registered
5 organization, only if the financing statement provides the name
6 ~~[of the debtor indicated]~~ that is stated to be the registered
7 organization's name on the public organic record ~~[of]~~ most
8 recently filed with or issued or enacted by the ~~[debtor's]~~
9 registered organization's jurisdiction of organization which
10 ~~[shows the debtor to have been organized]~~ purports to state,
11 amend or restate the registered organization's name;

12 (2) subject to Subsection (f) of this section,
13 if the debtor ~~[is a decedent's estate]~~ collateral is being
14 administered by the personal representative of a decedent, only
15 if the financing statement provides, as the name of the debtor,
16 the name of the decedent and in a separate part of the
17 financing statement, indicates that the ~~[debtor is an estate]~~
18 collateral is being administered by a personal representative;

19 (3) if the ~~[debtor is a trust or a trustee~~
20 ~~acting with respect to property held in trust, only if the~~
21 ~~financing statement:~~

22 (A) ~~provides the name specified for the~~
23 ~~trust in its organic documents or, if no name is specified,~~
24 ~~provides the name of the settlor and additional information~~
25 ~~sufficient to distinguish the debtor from other trusts having~~

.187538.4

underscored material = new
[bracketed material] = delete

1 ~~one or more of the same settlors; and~~

2 ~~(B) indicates, in the debtor's name or~~
3 ~~otherwise, that the debtor is a trust or is a trustee acting~~
4 ~~with respect to property held in trust] collateral is held in a~~
5 ~~trust that is not a registered organization, only if the~~
6 ~~financing statement:~~

7 (A) provides as the name of the debtor:

8 (i) if the organic record of the
9 trust specifies a name for the trust, the name specified; or

10 (ii) if the organic record of the
11 trust does not specify a name for the trust, the name of the
12 settlor or testator; and

13 (B) in a separate part of the financing
14 statement:

15 (i) if the name is provided in
16 accordance with Subparagraph (A)(i) of this paragraph,
17 indicates that the collateral is held in a trust; or

18 (ii) if the name is provided in
19 accordance with Subparagraph (A)(ii) of this paragraph,
20 provides additional information sufficient to distinguish the
21 trust from other trusts having one or more of the same settlors
22 or the same testator and indicates that the collateral is held
23 in a trust, unless the additional information so indicates;

24 (4) subject to Subsection (g) of this section,
25 if the debtor is an individual to whom this state has issued a

.187538.4

underscored material = new
[bracketed material] = delete

1 driver's license that has not expired, only if the financing
2 statement provides the name of the individual indicated on the
3 driver's license;

4 (5) if the debtor is an individual to whom
5 Paragraph (4) of this subsection does not apply, only if the
6 financing statement provides the individual name of the debtor
7 or the surname and first personal name of the debtor; and

8 [~~4~~] (6) in other cases:

9 (A) if the debtor has a name, only if
10 [~~it~~] the financing statement provides the [~~individual or~~]
11 organizational name of the debtor; and

12 (B) if the debtor does not have a name,
13 only if it provides the names of the partners, members,
14 associates or other persons comprising the debtor in a manner
15 such that each name provided would be sufficient if the person
16 named were the debtor.

17 (b) A financing statement that provides the name of
18 the debtor in accordance with Subsection (a) of this section is
19 not rendered ineffective by the absence of:

20 (1) a trade name or other name of the debtor;
21 or

22 (2) unless required under Subparagraph (B) of
23 Paragraph [~~4~~] (6) of Subsection (a) of this section, names of
24 partners, members, associates or other persons comprising the
25 debtor.

.187538.4

underscored material = new
[bracketed material] = delete

1 (c) A financing statement that provides only the
2 debtor's trade name does not sufficiently provide the name of
3 the debtor.

4 (d) Failure to indicate the representative capacity
5 of a secured party or representative of a secured party does
6 not affect the sufficiency of a financing statement.

7 (e) A financing statement may provide the name of
8 more than one debtor and the name of more than one secured
9 party.

10 (f) The name of the decedent indicated on the order
11 appointing the personal representative of the decedent issued
12 by the court having jurisdiction over the collateral is
13 sufficient as the name of the decedent under Paragraph (2) of
14 Subsection (a) of this section.

15 (g) If this state has issued to an individual more
16 than one driver's license of a kind described in Paragraph (4)
17 of Subsection (a) of this section, the one that was issued most
18 recently is the one to which Paragraph (4) of Subsection (a) of
19 this section refers.

20 (h) As used in this section, "name of the settlor
21 or testator" means:

22 (1) if the settlor is a registered
23 organization, the name that is stated to be the settlor's name
24 on the public organic record most recently filed with or issued
25 or enacted by the settlor's jurisdiction of organization that

.187538.4

underscored material = new
[bracketed material] = delete

1 purports to state, amend or restate the settlor's name; or
2 (2) in other cases, the name of the settlor or
3 testator indicated in the trust's organic record."

4 SECTION 14. Section 55-9-507 NMSA 1978 (being Laws 2001,
5 Chapter 139, Section 78) is amended to read:

6 "55-9-507. EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF
7 FINANCING STATEMENT.--

8 (a) A filed financing statement remains effective
9 with respect to collateral that is sold, exchanged, leased,
10 licensed or otherwise disposed of and in which a security
11 interest or agricultural lien continues, even if the secured
12 party knows of or consents to the disposition.

13 (b) Except as otherwise provided in Subsection (c)
14 of this section and Section 55-9-508 NMSA 1978, a financing
15 statement is not rendered ineffective if, after the financing
16 statement is filed, the information provided in the financing
17 statement becomes seriously misleading under Section 55-9-506
18 NMSA 1978.

19 (c) If [~~a debtor so changes its~~] the name that a
20 filed financing statement provides for a debtor becomes
21 insufficient as the name of the debtor under Subsection (a) of
22 Section 55-9-503 NMSA 1978 such that the financing statement
23 becomes seriously misleading under Section 55-9-506 NMSA 1978:

24 (1) the financing statement is effective to
25 perfect a security interest in collateral acquired by the

.187538.4

underscored material = new
[bracketed material] = delete

1 debtor before, or within four months after, the [~~change~~] filed
2 financing statement becomes seriously misleading; and

3 (2) the financing statement is not effective
4 to perfect a security interest in collateral acquired by the
5 debtor more than four months after the [~~change~~] filed financing
6 statement becomes seriously misleading, unless an amendment to
7 the financing statement [~~which~~] that renders the financing
8 statement not seriously misleading is filed within four months
9 after the [~~change~~] financing statement became seriously
10 misleading."

11 SECTION 15. Section 55-9-510 NMSA 1978 (being Laws 2001,
12 Chapter 139, Section 81) is amended to read:

13 "55-9-510. EFFECTIVENESS OF FILED RECORD.--

14 (a) A filed record is effective only to the extent
15 that it was filed by a person that may file it under Section
16 55-9-509 NMSA 1978 or by the filing office under Subsection (a)
17 of Section 55-9-513 NMSA 1978.

18 (b) A record authorized by one secured party of
19 record does not affect the financing statement with respect to
20 another secured party of record.

21 (c) A continuation statement that is not filed
22 within the six-month period prescribed by Subsection (d) of
23 Section 55-9-515 NMSA 1978 is ineffective."

24 SECTION 16. A new section of the Uniform Commercial Code-
25 Secure Transactions, Section 55-9-513.1 NMSA 1978, is enacted

.187538.4

underscored material = new
[bracketed material] = delete

1 to read:

2 "55-9-513.1. [NEW MATERIAL] UNAUTHORIZED FILING OF
3 FINANCING STATEMENT--AFFIDAVIT REQUIRED--CIVIL PENALTIES.--

4 (a) No person shall communicate a financing
5 statement to a filing office for filing that is:

6 (1) not authorized or permitted under Section
7 55-9-509 or 55-9-808 NMSA 1978;

8 (2) not related to a valid existing or
9 potential commercial or financial transaction; and

10 (3) filed with the intent to harass, hinder or
11 defraud a qualified person identified as an individual debtor
12 in the financing statement.

13 (b) A qualified person may file in the office of
14 the secretary of state a notarized affidavit, signed under
15 penalty of perjury, stating that:

16 (1) the affiant is a qualified person;

17 (2) none of the secured parties of record is a
18 financial institution as defined in Subsection (o) of this
19 section;

20 (3) all secured parties of record are
21 individuals; and

22 (4) the financing statement was filed by an
23 individual not authorized or permitted to do so under Section
24 55-9-509 or 55-9-808 NMSA 1978.

25 (c) (1) The secretary of state shall adopt and

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 make available a form of affidavit for use under this section.

2 (2) The filing office shall not charge a fee
3 for the filing of an affidavit or a termination statement under
4 this section. The filing office shall not return any fee paid
5 for filing the financing statement identified in the affidavit,
6 whether or not the financing statement is subsequently
7 reinstated.

8 (3) In a case in which Section 55-9-501 NMSA
9 1978 provides that the proper office to file a financing
10 statement is the office designated for the filing or recording
11 of a record of a mortgage on real property, the secretary of
12 state shall promptly transmit to that office copies of all
13 communications regarding an affidavit filed under this section,
14 including the affidavit itself, any termination statement filed
15 under Subsection (d) of this section and any amendment filed or
16 preliminary or final court order received pursuant to
17 Subsection (g) or (h) of this section, and upon receipt the
18 receiving office shall take the actions described herein.

19 (d) If an affidavit is filed under Subsection (b)
20 of this section, the filing office shall promptly file a
21 termination statement with respect to the financing statement
22 identified in the affidavit and the qualified person who filed
23 the affidavit. The termination statement shall indicate that
24 it was filed pursuant to this section. Except as provided in
25 Subsections (g) and (h) of this section, a termination

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 statement filed under this subsection shall take effect thirty
2 days after it is filed.

3 (e) On or before the next business day after a
4 filing office files a termination statement under Subsection
5 (d) of this section, it shall send to each secured party of
6 record for the financing statement a notice advising the
7 secured party of record that the termination statement has been
8 filed. The notice shall be sent by certified mail, return
9 receipt requested, to the address provided for the secured
10 party in the financing statement.

11 (f) An individual indicated as a secured party of
12 record on a financing statement for which a termination
13 statement has been filed under Subsection (d) of this section
14 may, before or after the termination statement takes effect,
15 bring an action against the individual who filed the affidavit
16 under Subsection (b) of this section seeking a determination
17 that the financing statement was filed by a person entitled to
18 do so under Section 55-9-509 or 55-9-808 NMSA 1978. No filing
19 office nor any officer or employee of a filing office is a
20 necessary party to any such action. An action under this
21 subsection shall have priority on the court's calendar and
22 shall proceed by expedited hearing. If the individual who
23 filed the affidavit resides in this state, the exclusive venue
24 in this state for the action shall be in the district court for
25 the county where the individual principally resides in this

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 state. If the individual who filed the affidavit does not
2 reside in this state, the exclusive venue in this state shall
3 be in the district court for the county where the filing office
4 in which the financing statement was filed is located.

5 (g) In an action brought pursuant to Subsection (f)
6 of this section, a court may, in appropriate circumstances,
7 order preliminary relief, including but not limited to an order
8 precluding the termination statement from taking effect or
9 directing a party to take action to prevent the termination
10 statement from taking effect. If the court issues such an
11 order and the filing office receives a certified copy of the
12 order before the termination statement takes effect as provided
13 in Subsection (d) of this section, the termination statement
14 shall not take effect and the filing office shall promptly file
15 an amendment to the financing statement that indicates that an
16 order has prevented the termination statement from taking
17 effect. If such an order ceases to be effective by reason of a
18 subsequent order or a final judgment of that court or by an
19 order issued by another court, and the filing office receives a
20 certified copy of the subsequent judgment or order, the
21 termination statement shall become effective immediately upon
22 receipt of the certified copy, and the filing office shall
23 promptly file an amendment to the financing statement
24 indicating that the termination statement is effective.

25 (h) If a court determines in an action brought

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 pursuant to Subsection (f) of this section that the financing
2 statement was filed by a person entitled to do so under
3 Sections 55-9-509 and 55-9-808 NMSA 1978 and the filing office
4 receives a certified copy of the court's final judgment or
5 order before the termination statement takes effect, the
6 termination statement shall not take effect and the filing
7 office shall remove the termination statement and any
8 amendments filed under Subsection (g) of this section from the
9 files. If the filing office receives the certified copy after
10 the termination statement takes effect and within thirty days
11 after the final judgment or order was entered, the filing
12 office shall promptly file an amendment to the financing
13 statement that indicates that the financing statement has been
14 reinstated.

15 (i) Except as provided in Subsection (j) of this
16 section, upon the filing of an amendment reinstating a
17 financing statement under Subsection (h) of this section, the
18 effectiveness of the financing statement is retroactively
19 reinstated and the financing statement shall be considered
20 never to have been ineffective against all persons and for all
21 purposes.

22 (j) A financing statement whose effectiveness was
23 terminated under Subsection (d) of this section and has been
24 reinstated under Subsection (h) of this section shall not be
25 effective as against a person that purchased the collateral in

.187538.4

1 good faith between the time the termination statement was filed
2 and the time of the filing of the amendment reinstating the
3 financing statement, to the extent that the person gave new
4 value in reliance on the termination statement.

5 (k) (1) A person who violates Subsection (a) of
6 this section shall be civilly liable to an injured qualified
7 person for:

8 (A) actual damages caused by the
9 violation;

10 (B) reasonable attorney fees; and

11 (C) exemplary damages in an amount
12 determined by the court.

13 (2) Civil damages under Paragraph (1) of this
14 subsection are in addition to any recovery to which the
15 qualified person is entitled under Section 55-9-625 NMSA 1978,
16 or under law other than this article.

17 (1) Neither the filing office nor any of its
18 employees shall be subject to liability for the termination or
19 amendment of a financing statement in the lawful performance of
20 the duties of the office under this section.

21 (m) A person may not file an affidavit under this
22 section with respect to a financing statement filed by a
23 financial institution, as defined in Subsection (o) of this
24 section or a representative of a financial institution.

25 (n) In this section, the term "qualified person"

1 means an individual who, at the time the financing statement
2 referred to in Subsection (b) of this section was filed, or
3 within ten years prior to the time of filing, was:

4 (1) an elected or appointed official of this
5 state or a governmental unit of this state as defined in
6 Subsection (1) of Section 55-9-102 NMSA 1978 or an employee of
7 such an official;

8 (2) an officer or employee of a federal, state
9 or local judicial, prosecutorial or public defender office or
10 program;

11 (3) an officer or employee of a federal, state
12 or local law enforcement office, including a correctional,
13 probation or parole officer or employee; or

14 (4) an officer or employee of an office
15 designated in Section 55-9-501 NMSA 1978 as a place to file a
16 financing statement.

17 (o) In this section, the term "financial
18 institution" means a person that:

19 (1) is in the business of extending credit and
20 servicing loans, including acquiring, purchasing, selling and
21 brokering, or other extensions of credit; and

22 (2) where applicable, holds whatever license,
23 charter or registration that is required to engage in such
24 business.

25 The term includes banks, savings banks, savings

underscoring material = new
~~[bracketed material] = delete~~

1 associations, building and loan associations, credit unions,
2 consumer and commercial finance companies, industrial banks,
3 industrial loan companies, insurance companies, investment
4 companies, installment sellers, mortgage servicers, sales
5 finance companies and leasing companies.

6 (p) This section applies only to a filed financing
7 statement that identifies as a debtor a qualified person and
8 that was filed by a person not authorized to do so under
9 Section 55-9-509 or 55-9-808 NMSA 1978. If the financing
10 statement identifies more than one debtor, this section applies
11 only to a debtor who is a qualified person."

12 SECTION 17. Section 55-9-515 NMSA 1978 (being Laws 2001,
13 Chapter 139, Section 86, as amended) is amended to read:

14 "55-9-515. DURATION AND EFFECTIVENESS OF FINANCING
15 STATEMENT--EFFECT OF LAPSED FINANCING STATEMENT.--

16 (a) Except as otherwise provided in Subsections
17 (b), (e), (f) and (g) of this section, a filed financing
18 statement is effective for a period of five years after the
19 date of filing.

20 (b) Except as otherwise provided in Subsections
21 (e), (f) and (g) of this section, an initial financing
22 statement filed in connection with a manufactured-home
23 transaction is effective for a period of thirty years after the
24 date of filing if it indicates that it is filed in connection
25 with a manufactured-home transaction.

.187538.4

underscoring material = new
~~[bracketed material]~~ = delete

1 (c) The effectiveness of a filed financing
2 statement lapses on the expiration of the period of its
3 effectiveness unless before the lapse a continuation statement
4 is filed pursuant to Subsection (d) of this section. Upon
5 lapse, a financing statement ceases to be effective and any
6 security interest or agricultural lien that was perfected by
7 the financing statement becomes unperfected unless the security
8 interest is perfected otherwise. If the security interest or
9 agricultural lien becomes unperfected upon lapse, it is deemed
10 never to have been perfected as against a purchaser of the
11 collateral for value.

12 (d) A continuation statement may be filed only
13 within six months before the expiration of the five-year period
14 specified in Subsection (a) of this section or the thirty-year
15 period specified in Subsection (b) of this section, whichever
16 is applicable.

17 (e) Except as otherwise provided in Section
18 55-9-510 NMSA 1978, upon timely filing of a continuation
19 statement, the effectiveness of the initial financing statement
20 continues for a period of five years commencing on the day on
21 which the financing statement would have become ineffective in
22 the absence of the filing. Upon the expiration of the five-
23 year period, the financing statement lapses in the same manner
24 as provided in Subsection (c) of this section, unless, before
25 the lapse, another continuation statement is filed pursuant to

.187538.4

underscoring material = new
[bracketed material] = delete

1 Subsection (d) of this section. Succeeding continuation
2 statements may be filed in the same manner to continue the
3 effectiveness of the initial financing statement.

4 (f) If a debtor is a transmitting utility and a
5 filed initial financing statement so indicates, the financing
6 statement is effective until a termination statement is filed.
7 The filing officer may require proof of the debtor's authority
8 to operate as a transmitting utility as a condition of filing
9 the financing statement or an amendment.

10 (g) A record of a mortgage that is effective as a
11 financing statement filed as a fixture filing under Subsection
12 (c) of Section 55-9-502 NMSA 1978 remains effective as a
13 financing statement filed as a fixture filing until the
14 mortgage is released or satisfied of record or its
15 effectiveness otherwise terminates as to the real property."

16 SECTION 18. Section 55-9-516 NMSA 1978 (being Laws 2001,
17 Chapter 139, Section 87) is amended to read:

18 "55-9-516. WHAT CONSTITUTES FILING--EFFECTIVENESS OF
19 FILING.--

20 (a) Except as otherwise provided in Subsection (b)
21 of this section, communication of a record to a filing office
22 and tender of the filing fee or acceptance of the record by the
23 filing office constitutes filing.

24 (b) Filing does not occur with respect to a record
25 that the secretary of state refuses to accept because:

.187538.4

underscored material = new
[bracketed material] = delete

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

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

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

7 (A) in the case of an initial financing
8 statement, the record does not provide a name for the debtor;
9 [~~or~~]

10 (B) in the case of an amendment or
11 [~~correction~~] information statement, the record:

12 (i) does not identify the initial
13 financing statement as required by Section 55-9-512 or 55-9-518
14 NMSA 1978, as applicable; or

15 (ii) identifies an initial
16 financing statement whose effectiveness has lapsed under
17 Section 55-9-515 NMSA 1978;

18 (C) in the case of an initial financing
19 statement that provides the name of a debtor identified as an
20 individual or an amendment that provides a name of a debtor
21 identified as an individual that was not previously provided in
22 the financing statement to which the record relates, the record
23 does not identify the debtor's surname; or

24 (D) in the case of a record filed or
25 recorded in the filing office described in Paragraph (1) of

.187538.4

underscored material = new
[bracketed material] = delete

1 Subsection (a) of Section 55-9-501 NMSA 1978, the record does
2 not provide a sufficient description of the real property to
3 which it relates;

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

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

12 (A) provide a mailing address for the
13 debtor; or

14 (B) indicate whether the name provided
15 as the name of the debtor is the name of an individual or an
16 organization; [~~or~~

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

19 ~~(i) a type of organization for the~~
20 ~~debtor;~~

21 ~~(ii) a jurisdiction of organization~~
22 ~~for the debtor; and~~

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

.187538.4

underscored material = new
[bracketed material] = delete

1 (6) in the case of an assignment reflected in
2 an initial financing statement under Subsection (a) of Section
3 55-9-514 NMSA 1978 or an amendment filed under Subsection (b)
4 of Section 55-9-514 NMSA 1978, the record does not provide a
5 name and mailing address for the assignee; or

6 (7) in the case of a continuation statement,
7 the record is not filed within the six-month period prescribed
8 by Subsection (d) of Section 55-9-515 NMSA 1978.

9 (c) For purposes of Subsection (b) of this section:

10 (1) a record does not provide information if
11 the secretary of state is unable to read or decipher the
12 information; and

13 (2) a record that does not indicate that it is
14 an amendment or identify an initial financing statement to
15 which it relates, as required by Section 55-9-512, 55-9-514 or
16 55-9-518 NMSA 1978, is an initial financing statement.

17 (d) A record that is communicated to the filing
18 office with tender of the filing fee, but which the secretary
19 of state refuses to accept for a reason other than one set
20 forth in Subsection (b) of this section, is effective as a
21 filed record except as against a purchaser of the collateral
22 [~~which~~] that gives value in reasonable reliance upon the
23 absence of the record from the files."

24 SECTION 19. Section 55-9-518 NMSA 1978 (being Laws 2001,
25 Chapter 139, Section 89) is amended to read:

.187538.4

underscored material = new
[bracketed material] = delete

1 "55-9-518. CLAIM CONCERNING INACCURATE OR WRONGFULLY
2 FILED RECORD.--

3 (a) A person may file in the filing office [~~a~~
4 ~~correction~~] an information statement with respect to a record
5 indexed there under the person's name if the person believes
6 that the record is inaccurate or was wrongfully filed.

7 (b) [~~A correction~~] An information statement under
8 Subsection (a) of this section must:

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

12 (2) indicate that it is [~~a correction~~] an
13 information statement; and

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

19 (c) A person may file in the filing office an
20 information statement with respect to a record filed there if
21 the person is a secured party of record with respect to the
22 financing statement to which the record relates and believes
23 that the person that filed the record was not entitled to do so
24 under Subsection (d) of Section 55-9-509 NMSA 1978.

25 (d) An information statement under Subsection (c)

.187538.4

underscored material = new
[bracketed material] = delete

1 of this section must:

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

5 (2) indicate that it is an information
6 statement; and

7 (3) provide the basis for the person's belief
8 that the person that filed the record was not entitled to do so
9 under Subsection (d) of Section 55-9-509 NMSA 1978.

10 [~~e~~] (e) The filing of [~~a correction~~] an
11 information statement does not affect the effectiveness of an
12 initial financing statement or other filed record."

13 SECTION 20. Section 55-9-521 NMSA 1978 (being Laws 2001,
14 Chapter 139, Section 92) is repealed and a new Section 55-9-521
15 NMSA 1978 is enacted to read:

16 "55-9-521. [NEW MATERIAL] FORM OF FINANCING STATEMENT AND
17 AMENDMENT--RECORDS.--

18 (a) A filing office that accepts written records
19 may not refuse to accept a written initial financing statement
20 that is in the following form and format, except for a reason
21 set forth in Subsection (b) of Section 55-9-516 NMSA 1978:

22 "UCC FINANCING STATEMENT

23 FOLLOW INSTRUCTIONS

24 A. NAME & PHONE OF CONTACT AT FILER (optional)

25

.187538.4

underscored material = new
[bracketed material] = delete

1 B. E-MAIL CONTACT AT FILER (optional)

2 _____

3 C. SEND ACKNOWLEDGMENT TO: (Name and Address)

4 _____

5 _____

6 _____

7 THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

8 1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b)
9 (use exact, full name; do not omit, modify, or abbreviate
10 any part of the Debtor's name), if any part of the
11 individual Debtor's name will not fit in line 1b, leave
12 all of item 1 blank, check here and provide the
13 Individual Debtor information in item 10 of the Financing
14 Statement Addendum (Form UCC1Ad)

15 1a. ORGANIZATION'S NAME

16 _____

17 OR 1b. INDIVIDUAL'S SURNAME

18 _____

19 FIRST PERSONAL NAME

20 _____

21 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

22 _____

23 1c. MAILING ADDRESS

24 _____

25 CITY STATE POSTAL CODE COUNTRY

underscoring material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b)
(use exact, full name; do not omit, modify, or abbreviate
any part of the Debtor's name), if any part of the
Individual Debtor's name will not fit in line 2b, leave
all of item 2 blank, check here and provide the
Individual Debtor information in item 10 of the Financing
Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME

OR 2b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIALS(S) SUFFIX

2c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
------	-------	-------------	---------

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR
SECURED PARTY) Provide only one Secured Party name (3a or
3b)

3a. ORGANIZATION'S NAME

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

OR 3b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

3c. MAILING ADDRESS

CITY STATE POSTAL CODE COUNTRY

4. COLLATERAL: This financing statement covers the following collateral

5. Check only if applicable and check only one box.
Collateral is
 held in a Trust (see UCC1Ad, item 17 and instructions)
 being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box.
 Public-Finance Transaction
 Manufactured-Home Transaction
 A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box
 Agricultural Lien
 Non-UCC Filing

underscored material = new
[bracketed material] = delete

1 7. ALTERNATIVE DESIGNATION (if applicable)

2 Lessee/Lessor

3 Consignee/Consignor

4 Seller/Buyer

5 Bailee/Bailor

6 Licensee/Licensors

7 8. OPTIONAL FILER REFERENCE DATA:

8 _____
9 UCC FINANCING STATEMENT (Form UCC1) (Rev. 04/20/11)

10 UCC FINANCING STATEMENT ADDENDUM

11 FOLLOW INSTRUCTIONS

12 9. NAME OF FIRST DEBTOR: Same as line
13 1a or 1b on Financing Statement; if
14 line 1b was left blank because
15 individual Debtor name did not fit,
16 check here _____

17 9a. ORGANIZATION'S NAME
18 _____
19 _____

20 OR 9b. INDIVIDUAL'S SURNAME
21 _____

22 FIRST PERSONAL NAME
23 _____

24 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX
25 _____

THE ABOVE SPACE IS
FOR FILING

underscored material = new
[bracketed material] = delete

OFFICE USE ONLY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

10. DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1)(use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

10a. ORGANIZATION'S NAME

OR 10b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

10c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
------	-------	-------------	---------

11. ___ ADDITIONAL SECURED PARTY'S NAME or

___ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (11a or 11b)

11a. ORGANIZATION'S NAME

OR 11b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

.187538.4

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

llc. MAILING ADDRESS

CITY STATE POSTAL CODE COUNTRY

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral):

13. ___ This FINANCING STATEMENT is to be filed [for record]
(or recorded) in the REAL ESTATE RECORDS (if applicable)

14. This FINANCING STATEMENT:

___ covers timber to be cut

___ covers as-extracted collateral

___ is filed as a fixture filing

15. Name and address of a RECORD OWNER of real estate
described in Item 16 (if Debtor does not have a record
interest):

16. Description of real estate:

.187538.4

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

17. MISCELLANEOUS:

UCC FINANCING STATEMENT ADDENDUM (Form UCC1Ad)(Rev. 04/20/11)".

(b) 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 Subsection (b) of Section 55-9-516 NMSA 1978:

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name **THE ABOVE SPACE IS FOR**
and Address) **FILING OFFICE USE ONLY**

la. INITIAL FINANCING STATEMENT FILE NUMBER

lb. ___ This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13

2. ___ TERMINATION: Effectiveness of the Financing Statement

.187538.4

underscoring material = new
[bracketed material] = delete

1 identified above is terminated with respect to the security
2 interest(s) of Secured Party authorizing this Termination
3 Statement.

4 3. ___ ASSIGNMENT (full or partial): Provide name of Assignee
5 in item 7a or 7b, and address of Assignee in item 7c and
6 name of Assignor in item 9. For partial assignment,
7 complete items 7 and 9 and also indicate affected
8 collateral in item 8.

9 4. ___ CONTINUATION: Effectiveness of the Financing Statement
10 identified above with respect to the security interest(s)
11 of Secured Party authorizing this Continuation Statement is
12 continued for the additional period provided by applicable
13 law.

14 5. PARTY INFORMATION CHANGE:

15 Check one of these two boxes:

16 This change affects ___ Debtor or ___ Secured Party of
17 record

18 AND Check one of these three boxes to:

19 ___ CHANGE name and/or address: Complete item 6a or 6b;
20 and item 7a or 7b and item 7c

21 ___ ADD name: Complete item 7a or 7b, and item 7c

22 ___ DELETE name: Give record name to be deleted in item 6a
23 or 6b

24 6. CURRENT RECORD INFORMATION: Complete for Party Information
25 Change - provide only one name (6a or 6b)

.187538.4

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

6a. ORGANIZATION'S NAME

OR 6b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

7a. ORGANIZATION'S NAME

OR 7b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

7c. MAILING ADDRESS

CITY STATE POSTAL CODE COUNTRY

8. COLLATERAL CHANGE: Also check one of these four boxes:
 ADD collateral DELETE collateral
 RESTATE covered collateral ASSIGN collateral

Indicate collateral: _____

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT:

.187538.4

underscored material = new
[bracketed material] = delete

1 Provide only one name (9a or 9b) (name of Assignor, if this
2 is an Assignment)

3 If this is an Amendment authorized by a DEBTOR, check here
4 ___ and provide name of authorizing Debtor

5 9a. ORGANIZATION'S NAME
6 _____

7 OR 9b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME
8 _____

9 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX
10 _____

11 10. OPTIONAL FILER REFERENCE DATA:
12 _____

13 **UCC FINANCING STATEMENT AMENDMENT ADDENDUM**

14 FOLLOW INSTRUCTIONS

15 11. INITIAL FINANCING STATEMENT FILE NUMBER: Same as item 1a
16 on Amendment form

17 _____
18 12. NAME OF PARTY AUTHORIZING THIS AMENDMENT: Same as item 9
19 on Amendment form

20 12a. ORGANIZATION'S NAME
21 _____

22 OR 12b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME
23 _____

24 ADDITIONAL NAME(S)/INITIAL(S)
25 _____

THE ABOVE SPACE IS

.187538.4

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUFFIX

FOR FILING

OFFICE USE ONLY

13. Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only in some filing offices – see Instruction item 13). Provide only one Debtor name (13a or 13b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name). See instructions if name does not fit.

13a. ORGANIZATION'S NAME

OR 13b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

14. ADDITIONAL SPACE FOR ITEM 8 (Collateral):

15. This FINANCING STATEMENT AMENDMENT:
__ covers timber to be cut, __ covers as-extracted collateral, __ is filled as a fixture filing

16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):

.187538.4

underscoring material = new
~~[bracketed material]~~ = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

17. Description of real estate:

18. MISCELLANEOUS

UCC FINANCING STATEMENT AMENDMENT ADDENDUM
(Form UCC3Ad) (Rev 04/20/11)"."

SECTION 21. Section 55-9-607 NMSA 1978 (being Laws 2001, Chapter 139, Section 104) is amended to read:

"55-9-607. COLLECTION AND ENFORCEMENT BY SECURED PARTY.--

(a) If so agreed, and in any event after default, a secured party:

(1) may notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(2) may take any proceeds to which the secured party is entitled under Section 55-9-315 NMSA 1978;

(3) may enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with

.187538.4

underscored material = new
[bracketed material] = delete

1 respect to any property that secures the obligations of the
2 account debtor or other person obligated on the collateral;

3 (4) if it holds a security interest in a
4 deposit account perfected by control under Paragraph (1) of
5 Subsection (a) of Section 55-9-104 NMSA 1978, may apply the
6 balance of the deposit account to the obligation secured by the
7 deposit account; and

8 (5) if it holds a security interest in a
9 deposit account perfected by control under ~~Paragraphs~~
10 Paragraph (2) or (3) of Subsection (a) of Section 55-9-104 NMSA
11 1978, may instruct the bank to pay the balance of the deposit
12 account to or for the benefit of the secured party.

13 (b) If necessary to enable a secured party to
14 exercise under Paragraph (3) of Subsection (a) of this section
15 the right of a debtor to enforce a mortgage nonjudicially, the
16 secured party may record in the office in which a record of the
17 mortgage is recorded:

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

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

23 (A) a default has occurred with respect
24 to the obligation secured by the mortgage; and

25 (B) the secured party is entitled to

.187538.4

underscored material = new
[bracketed material] = delete

1 enforce the mortgage nonjudicially.

2 (c) A secured party shall proceed in a commercially
3 reasonable manner if the secured party:

4 (1) undertakes to collect from or enforce an
5 obligation of an account debtor or other person obligated on
6 collateral; and

7 (2) is entitled to charge back uncollected
8 collateral or otherwise to full or limited recourse against the
9 debtor or a secondary obligor.

10 (d) A secured party may deduct from the collections
11 made pursuant to Subsection (c) of this section reasonable
12 expenses of collection and enforcement, including reasonable
13 attorney fees and legal expenses incurred by the secured party.

14 (e) This section does not determine whether an
15 account debtor, bank or other person obligated on collateral
16 owes a duty to a secured party."

17 **SECTION 22.** A new Section 55-9-801 NMSA 1978 is enacted to
18 read:

19 "55-9-801. [NEW MATERIAL] EFFECTIVE DATE.--The effective
20 date of the provisions of this 2012 act is July 1, 2013."

21 **SECTION 23.** A new Section 55-9-802 NMSA 1978 is enacted to
22 read:

23 "55-9-802. [NEW MATERIAL] APPLICABILITY.--

24 (a) Except as otherwise provided in this part, this
25 2012 act applies to a transaction or lien within its scope,

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 even if the transaction or lien was entered into or created
2 before this 2012 act takes effect.

3 (b) This 2012 act does not affect an action, case,
4 or proceeding commenced before this 2012 act takes effect."

5 SECTION 24. A new Section 55-9-803 NMSA 1978 is enacted to
6 read:

7 "55-9-803. [NEW MATERIAL] SECURITY INTEREST PERFECTED
8 BEFORE EFFECTIVE DATE.--

9 (a) A security interest that is a perfected
10 security interest immediately before this 2012 act takes effect
11 is a perfected security interest under Chapter 55, Article 9
12 NMSA 1978, as amended by this 2012 act, if, when this 2012 act
13 takes effect, the applicable requirements for attachment and
14 perfection under Chapter 55, Article 9 NMSA 1978, as amended by
15 this 2012 act, are satisfied without further action.

16 (b) Except as otherwise provided in Section
17 55-9-805 NMSA 1978, if, immediately before this 2012 act takes
18 effect, a security interest is a perfected security interest
19 but the applicable requirements for perfection under Chapter
20 55, Article 9 NMSA 1978, as amended by this 2012 act, are not
21 satisfied when this act takes effect, the security interest
22 remains perfected thereafter only if the applicable
23 requirements for perfection under Chapter 55, Article 9 NMSA
24 1978, as amended by this 2012 act, are satisfied within one
25 year after this 2012 act takes effect."

.187538.4

underscoring material = new
[bracketed material] = delete

1 **SECTION 25.** A new Section 55-9-804 NMSA 1978 is enacted to
2 read:

3 "55-9-804. [NEW MATERIAL] SECURITY INTEREST UNPERFECTED
4 BEFORE EFFECTIVE DATE.--A security interest that is an
5 unperfected security interest immediately before this 2012 act
6 takes effect becomes a perfected security interest:

7 (a) without further action, when this 2012 act
8 takes effect, if the applicable requirements for perfection
9 under Chapter 55, Article 9 NMSA 1978, as amended by this 2012
10 act, are satisfied before or at that time; or

11 (b) when the applicable requirements for perfection
12 are satisfied if the requirements are satisfied after that
13 time."

14 **SECTION 26.** A new Section 55-9-805 NMSA 1978 is enacted to
15 read:

16 "55-9-805. [NEW MATERIAL] EFFECTIVENESS OF ACTION TAKEN
17 BEFORE EFFECTIVE DATE.--

18 (a) The filing of a financing statement before this
19 2012 act takes effect is effective to perfect a security
20 interest to the extent the filing would satisfy the applicable
21 requirements for perfection under Chapter 55, Article 9 NMSA
22 1978, as amended by this 2012 act.

23 (b) This 2012 act does not render ineffective an
24 effective financing statement that, before this 2012 act takes
25 effect, is filed and satisfies the applicable requirements for

.187538.4

underscoring material = new
~~[bracketed material]~~ = delete

1 perfection under the law of the jurisdiction governing
2 perfection as provided in Chapter 55, Article 9 NMSA 1978 as it
3 existed before amendment. However, except as otherwise
4 provided in Subsections (c) and (d) of this section and Section
5 55-9-806 NMSA 1978, the financing statement ceases to be
6 effective:

7 (1) if the financing statement is filed in
8 this state at the time the financing statement would have
9 ceased to be effective had this 2012 act not taken effect; or

10 (2) if the financing statement is filed in
11 another jurisdiction, at the earlier of:

12 (A) the time the financing statement
13 would have ceased to be effective under the law of that
14 jurisdiction; or

15 (B) June 30, 2018.

16 (c) The filing of a continuation statement after
17 this 2012 act takes effect does not continue the effectiveness
18 of a financing statement filed before this 2012 act takes
19 effect. However, upon the timely filing of a continuation
20 statement after this 2012 act takes effect, and in accordance
21 with the law of the jurisdiction governing perfection as
22 provided in Chapter 55, Article 9 NMSA 1978, as amended by this
23 2012 act, the effectiveness of a financing statement filed in
24 the same office in that jurisdiction before this 2012 act takes
25 effect continues for the period provided by the law of that

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 jurisdiction.

2 (d) Subparagraph (B) of Paragraph (2) of Subsection
3 (b) of this section applies to a financing statement that,
4 before this 2012 act takes effect, is filed against a
5 transmitting utility and satisfies the applicable requirements
6 for perfection under the law of the jurisdiction governing
7 perfection as provided in Chapter 55, Article 9 NMSA 1978, as
8 it existed before amendment, only to the extent that Chapter
9 55, Article 9 NMSA 1978, as amended by this 2012 act, provides
10 that the law of a jurisdiction other than the jurisdiction in
11 which the financing statement is filed governs perfection of a
12 security interest in collateral covered by the financing
13 statement.

14 (e) A financing statement that includes a financing
15 statement filed before this 2012 act takes effect and a
16 continuation statement filed after this 2012 act takes effect
17 is effective only to the extent that it satisfies the
18 requirements of Part 5, as amended by this 2012 act, for an
19 initial financing statement. A financing statement that
20 indicates that the debtor is a decedent's estate indicates that
21 the collateral is being administered by a personal
22 representative within the meaning of Paragraph (2) of
23 Subsection (a) of Section 55-9-503 NMSA 1978, as amended by
24 this 2012 act. A financing statement that indicates that the
25 debtor is a trust, or is a trustee acting with respect to

.187538.4

underscoring material = new
~~[bracketed material] = delete~~

1 property held in trust, indicates that the collateral is held
2 in a trust within the meaning of Paragraph (3) of Subsection
3 (a) of Section 55-9-503 NMSA 1978, as amended by this 2012
4 act."

5 SECTION 27. A new Section 55-9-806 NMSA 1978 is enacted to
6 read:

7 "55-9-806. [NEW MATERIAL] WHEN INITIAL FINANCING STATEMENT
8 SUFFICES TO CONTINUE EFFECTIVENESS OF FINANCING STATEMENT.--

9 (a) The filing of an initial financing statement in
10 the office specified in Section 55-9-501 NMSA 1978 continues
11 the effectiveness of a financing statement filed before this
12 2012 act takes effect if:

13 (1) the filing of an initial financing
14 statement in that office would be effective to perfect a
15 security interest under Chapter 55, Article 9 NMSA 1978, as
16 amended by this 2012 act;

17 (2) the pre-effective-date financing statement
18 was filed in an office in another state; and

19 (3) the initial financing statement satisfies
20 Subsection (c) of this section.

21 (b) The filing of an initial financing statement
22 under Subsection (a) of this section continues the
23 effectiveness of the pre-effective-date financing statement:

24 (1) if the initial financing statement is
25 filed before this 2012 act takes effect, for the period

.187538.4

underscored material = new
[bracketed material] = delete

1 provided in unamended Section 55-9-515 NMSA 1978 with respect
2 to an initial financing statement; and

3 (2) if the initial financing statement is
4 filed after this 2012 act takes effect, for the period provided
5 in Section 55-9-515 NMSA 1978, as amended by this 2012 act,
6 with respect to an initial financing statement.

7 (c) To be effective for purposes of Subsection (a)
8 of this section, an initial financing statement must:

9 (1) satisfy the requirements of Part 5, as
10 amended by this 2012 act, for an initial financing statement;

11 (2) identify the pre-effective-date financing
12 statement by indicating the office in which the financing
13 statement was filed and providing the dates of filing and file
14 numbers, if any, of the financing statement and of the most
15 recent continuation statement filed with respect to the
16 financing statement; and

17 (3) indicate that the pre-effective-date
18 financing statement remains effective."

19 **SECTION 28.** A new Section 55-9-807 NMSA 1978 is enacted to
20 read:

21 "55-9-807. [NEW MATERIAL] AMENDMENT OF PRE-EFFECTIVE-DATE
22 FINANCING STATEMENT.--

23 (a) As used in this section, "pre-effective-date
24 financing statement" means a financing statement filed before
25 this 2012 act takes effect.

.187538.4

underscoring material = new
[bracketed material] = delete

1 (b) After this 2012 act takes effect, a person may
2 add or delete collateral covered by, continue or terminate the
3 effectiveness of, or otherwise amend the information provided
4 in, a pre-effective-date financing statement only in accordance
5 with the law of the jurisdiction governing perfection as
6 provided in Chapter 55, Article 9 NMSA 1978, as amended by this
7 2012 act. However, the effectiveness of a pre-effective-date
8 financing statement also may be terminated in accordance with
9 the law of the jurisdiction in which the financing statement is
10 filed.

11 (c) Except as otherwise provided in Subsection (d)
12 of this section, if the law of this state governs perfection of
13 a security interest, the information in a pre-effective-date
14 financing statement may be amended after this 2012 act takes
15 effect only if:

16 (1) the pre-effective-date financing statement
17 and an amendment are filed in the office specified in Section
18 55-9-501 NMSA 1978;

19 (2) an amendment is filed in the office
20 specified in Section 55-9-501 NMSA 1978 concurrently with, or
21 after the filing in that office of, an initial financing
22 statement that satisfies Subsection (c) of Section 55-9-806
23 NMSA 1978; or

24 (3) an initial financing statement that
25 provides the information as amended and that satisfies

.187538.4

underscored material = new
[bracketed material] = delete

1 Subsections (c) of Section 55-9-806 NMSA 1978, is filed in the
2 office specified in Section 55-9-501 NMSA 1978.

3 (d) If the law of this state governs perfection of
4 a security interest, the effectiveness of a pre-effective-date
5 financing statement may be continued only pursuant to
6 Subsections (c) and (e) of Section 55-9-805 or Section 55-9-806
7 NMSA 1978.

8 (e) Whether or not the law of this state governs
9 perfection of a security interest, the effectiveness of a pre-
10 effective-date financing statement filed in this state may be
11 terminated after this 2012 act takes effect by filing a
12 termination statement in the office in which the pre-effective-
13 date financing statement is filed, unless an initial financing
14 statement that satisfies Subsection (c) of Section 55-9-806
15 NMSA 1978 has been filed in the office specified by the law of
16 the jurisdiction governing perfection as provided in Chapter
17 55, Article 9 NMSA 1978, as amended by this 2012 act as the
18 office in which to file a financing statement."

19 **SECTION 29.** A new Section 55-9-808 NMSA 1978 is enacted to
20 read:

21 "55-9-808. [NEW MATERIAL] PERSON ENTITLED TO FILE INITIAL
22 FINANCING STATEMENT OR CONTINUATION STATEMENT.--A person may
23 file an initial financing statement or a continuation statement
24 under this part if:

25 (a) the secured party of record authorizes the

.187538.4

underscored material = new
[bracketed material] = delete

1 filing; and

2 (b) the filing is necessary under this part:

3 (1) to continue the effectiveness of a
4 financing statement filed before this 2012 act takes effect; or

5 (2) to perfect or continue the perfection of a
6 security interest."

7 SECTION 30. A new Section 55-9-809 NMSA 1978 is enacted to
8 read:

9 "55-9-809. [NEW MATERIAL] PRIORITY.--This 2012 act
10 determines the priority of conflicting claims to collateral.
11 However, if the relative priorities of the claims are
12 established before this 2012 act takes effect, Chapter 55,
13 Article 9 NMSA 1978, as it existed before amendment, determines
14 priority."