

SELECTED COMMERCIAL STATUTES

1999 EDITION

INCLUDING

**Uniform Commercial Code
1999 Official Text with Comments**

West Group

SELECTED COMMERCIAL STATUTES

1999 Edition



ST. PAUL, MINN., 1999

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ISBN 0-314-24012-8



TEXT IS PRINTED ON 10% POST
CONSUMER RECYCLED PAPER



PREFACE

This selection of Commercial Statutes is intended to supplement casebooks and other teaching materials in commercial law and related courses. It includes the text of the Uniform Commercial Code prepared under the joint sponsorship of The American Law Institute (ALI) and the National Conference of Commissioners on Uniform State Laws (NCCUSL), as last amended in 1999. Revised Article 9, Secured Transactions (1999), with a delayed effective date of July 1, 2001, appears in Appendix XVI.

Included with the text of the UCC are the Official Comments, prepared by the ALI and NCCUSL, which appear after each section. These comments explain the purpose and intent of the sections and the changes in the prior law that were affected by the Code. References to the Uniform Commercial Code Article 9, appearing in the text, Official Comments, Cross References, and Definitional Cross References, are references to Revised Article 9 as revised in 1972 and NOT references to Revised Article 9 as revised in 1999. NCCUSL continues to update the text, Official Comments, Cross References and Definitional Cross References of all other articles of the UCC. Appendices XVII and XVIII, respectively, contain amendments to other articles conforming to Revised (1999) Article 9 and conforming changes to the Official Comments which were available as of May, 1999.

We are pleased to add as a new feature to the 1999 edition Article 9 Analysis prepared by Steven O. Weise, ABA Advisor to the UCC Drafting Committee. This material contains charts and commentary designed to introduce the legal community to Revised Article 9 and ease the transition between the pre-revision and revised versions of the Article. We are grateful to Mr. Weise for allowing us to include this material in our pamphlet.

While the revision of Article 9 has made necessary the addition of a high volume of new material, we have taken care to preserve the structure of this pamphlet's previous editions. As a result, the Uniform Laws, Statutes, and Regulations included in prior pamphlets have been retained.

We are most grateful to Fred H. Miller, Executive Director of the National Conference of Commissioners on Uniform State Laws and Professor of Law at the University of Oklahoma, for graciously providing guidance in selection and organization of the UCC materials included in this pamphlet. His advice has been invaluable.

THE PUBLISHER

May, 1999

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FOREWORD TO 1999 OFFICIAL TEXT AND COMMENTS

Beginning in 1987, an effort to update and modernize the Uniform Commercial Code was begun with new Article 2A on leases of goods. Article 2A of the Uniform Commercial Code, along with conforming amendments to Articles 1 and 9, was promulgated, upon the recommendation of the Permanent Editorial Board for the Uniform Commercial Code, by the National Conference of Commissioners on Uniform State Laws and the American Law Institute. It represented a major development in commercial law, addressing a type of business transaction, the leasing of goods, that had long existed but which had increased dramatically in importance within the previous two decades. Under the law prior to Article 2A, leasing transactions were governed partly by common law principles relating to personal property, partly by principles relating to real estate leases, and partly by reference to Articles 2 and 9 of the Uniform Commercial Code, dealing with Sales and Secured Transactions respectively. The legal rules and concepts derived from these sources imperfectly fit a transaction that involved personal property rather than realty, and a lease rather than either a sale or a security interest as such, and the application of the law was uncertain in consequence. A statute directly addressing the personal property lease was therefore appropriate; indeed, especially appropriate with the exponential expansion of the number and scale of personal property lease transactions.

With completion of the work on Article 2A, focus turned to the area of payments. There an effort much like that for Article 2A was developed for commercial funds transfers, consumer funds transfers already being regulated by federal law. The design of appropriate rules for commercial funds transfers culminated in 1989 with the promulgation of new Article 4A. Article 4A provided the rules that would govern absent agreement, as well as some mandatory rules for funds transfers that aggregated millions of dollars daily. A year later revisions to Articles 3 and 4 on negotiable instruments and bank deposits and collections were completed. These revisions differed from the efforts in Articles 2A and 4A in that their focus was not to create but rather to bring those important bodies of law up to date in terms of modern business practices and technology, to address ambiguities in the law, and to better accommodate changes and developments in law relevant to the subject matter of those Articles.

1989 also was the year work on Article 6 dealing with bulk sales was completed. Here modernization demanded the repeal of the Article, since circumstances had eliminated its usefulness and its continued existence imposed only unnecessary expense on the commercial transactions it governed. For those jurisdictions where complete elimination was perceived as too radical, a substantially improved revised version was offered.

Taking their cue more from the revision of the Code than the addition of new coverage, in 1994 a revised Article 8 on investment securities was pro-

FOREWORD

mulgated. Revised Article 8 not only resolved ambiguities in the then version of Article 8, but also recognized legally the so-called "indirect holding system" for securities that had been developed by the market to better facilitate trades. Revised Article 8 also clarified and modernized the rules for taking security interests in investment property to mitigate the need to sell for liquidity in times of market stress.

Revised Article 5 followed in 1995. Again its purpose was to address troublesome ambiguities, to better coordinate with developments relevant to its subject matter, such as the revision of the Uniform Customs and Practice for Documentary Credits, and to recognize technological advances such as paperless letters of credit and documents.

The most current offering in the line of Code improvements is revised Article 9 promulgated by the Institute and the National Conference in 1999. Revised Article 9 resolves significant ambiguities in prior law that have been productive of litigation, such as the impact of subsequent transactions on the status of a purchase money security interest, expands the scope of the Article in significant ways to recognize the present commercial importance of certain types of transactions and collateral, modernizes the filing system and the enforcement of the security interest, and includes other provisions to recognize new technology, developments in other law, and current business practices.

The overall effort to revise the Uniform Commercial Code is not yet complete. In 1999, a revision of Article 2 on sales of goods and a conforming revision of Article 2A on leases of goods are contemplated. The year after, a revision of the general Article, Article 1, is scheduled for completion. New additions to the code, or related to the Code, on computer information transactions and electronic transactions also are scheduled. In the future, plans to perhaps address electronic instruments and documents are being formulated. Thus work remains to be done.

These products, and the Uniform Commercial Code itself, represent an important undertaking of the National Conference and the Institute. Preparing the text of these past and future products has required coordination of somewhat different procedures, and continued patience and mutual forbearance, between the organizations. At the same time, the text has been subjected to analysis and criticism from many points of view both within, and without, the National Conference and the Institute, and thereby steadily improved.

The resulting updated and modernized Code borrows from past experience and benefits from current wisdom. No doubt in use imperfections will manifest themselves, and time will erode the level of competence achieved. Further, changing circumstances will overtake the statute. Thus, in the future additional but, hopefully with greater attention, more modest efforts will be needed. In all of this, the dedication of the members of the Institute and the National Conference is a key to success. The drafting task is complicated both as a matter of substance and as a matter of process. The reporters on these projects have been masters of substance and steady and receptive principals in the process, and the National Conference and the Institute express their admiration and appreciation for their contributions. Last but not least, without the assistance of the American Bar Association and the representa-

FOREWORD

tives of industry, consumers, government, and others who have commented on the drafts, the product would be less acceptable and useful. Our recognition of their contributions is warranted as well.

FRED H. MILLER

Chairman

Permanent Editorial Board for
the Uniform Commercial Code

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TABLE OF CONTENTS

	Page
PREFACE -----	III
FOREWORD -----	V
Uniform Commercial [Code, 1999 Official] -----	1
Article 1. General Provisions -----	23
Article 2. Sales-----	44
Article 2A. Leases -----	152
Article 3. Negotiable Instruments [Revised] -----	235
Article 4. Bank Deposits and Collections-----	338
Article 4A. Funds Transfers-----	383
Article 5. Letters of Credit [Revised] -----	447
Article 6. Repealer of Article 6—Bulk Transfers and [Revised] Article 6—Bulk Sales -----	481
Article 7. Warehouse Receipts, Bills of Lading and Other Documents of Title -----	509
Article 8. Investment Securities [Revised]-----	542
Article 9. Secured Transactions; Sales of Accounts and Chattel Paper -----	648
Article 10. Effective Date and Repealer -----	754
Article 11. Effective Date and Transition Provisions -----	756
Appendix III. Article 1 and Article 9: 1987 Conforming Amendments [Conforming to Article 2A]-----	760
Appendix IV. Pre-revision Article 6-----	764
Appendix V. PEB Commentary on the Uniform Commercial Code--	773
Appendix VI. 1990 Amendments to Article 2A (Leases)-----	855
Appendix VII. Pre-revision Article 3-----	910
Appendix VIII. 1990 Article 1 Amendments Conforming to Revised Article 3 -----	991
Appendix IX. 1990 Conforming [to Revised Article 3] and Miscellaneous Amendments to Article 4 -----	993
Appendix X. Pre-revision Article 4 -----	1016
Appendix XI. 1994 Amendments to Uniform Commercial Code-----	1061
Appendix XII. 1994 and 1995 Amendments to Articles 1, 3, 4, 5, 9 and 10 Conforming to 1994 Revision of Article 8 -----	1071
Appendix XIV. 1995 Amendments to Articles 1, 2 and 9 Conforming to Revised Article 5 -----	1094
Appendix XV. Pre-revision Article 5 -----	1097
Appendix XVI. Revised [1999] Article 9 -----	1113
Appendix XVII. Conforming Amendments to Revised (1999) Article 9--	1357
Appendix XVIII. Changes to UCC Comments-----	1379
An Introduction to Revised UCC Article 9-----	1395
Preparing for the Revised UCC Article 9-----	1406
Comparison to the Current Article 9 and the new Article 9-----	1414
Food Security Act of 1985 -----	1437

TABLE OF CONTENTS

	Page
Uniform Consumer Credit Code, Official 1974 Text With Comments	
(selected sections) -----	1460
Article 1. General Provisions and Definitions -----	1461
Article 2. Finance Charges and Related Provisions -----	1480
Article 3. Regulation of Agreements and Practices -----	1504
Article 4. Insurance -----	1516
Article 5. Remedies and Penalties -----	1525
Article 6. Administration -----	1543
Uniform Consumer Sales Practices Act -----	1554
Uniform Fraudulent Conveyance Act -----	1569
Uniform Fraudulent Transfer Act -----	1572
Uniform Motor Vehicle Certificate of Title and Anti-Theft Act -----	1577
United Nations Convention on Contracts for the International Sale of	
Goods (1980) -----	1587
Consumer Credit Protection Act (selected sections) -----	1605
Title I—Consumer Credit Cost Disclosure -----	1608
Title III—Restriction on Garnishment -----	1660
Title IV—Credit Repair Organizations -----	1661
Title V—General Provisions -----	1667
Title VI—Consumer Credit Reporting -----	1667
Title VII—Equal Credit Opportunity -----	1696
Title VIII—Debt Collection Practices -----	1703
Title IX—Electronic Fund Transfers -----	1710
Regulation Z—Truth in Lending Regulations -----	1722
Regulation M—Consumer Leasing -----	1767
Regulation B—Equal Credit Opportunity -----	1775
Regulation E—Electronic Fund Transfers -----	1792
Regulation J—Collection of Checks and Other Items by Federal Reserve	
Banks and Funds Transfers Through Fedwire -----	1805
Regulation CC—Availability of Funds and Collection of Checks -----	1821
Magnuson-Moss Warranty—Federal Trade Commission Improvement Act	
(selected sections) -----	1849
Magnuson-Moss Warranty Act Regulations (selected parts) -----	1858
Federal Trade Commission Credit Practices Rules -----	1874
Federal Trade Commission Holder-In-Due-Course Regulations -----	1877
Federal Trade Commission Regulations for Sales Made at Homes or at	
Certain Other Locations -----	1879
Bankruptcy Code -----	1883
Federal Tax Lien Statutes—Internal Revenue Code (selected sections) ----	2029

UNIFORM COMMERCIAL CODE*

**The American Law Institute
and the
National Conference of
Commissioners on Uniform
State Laws**

**OFFICIAL TEXT—1999
WITH COMMENTS**

**Including
Article 2A—Leases
Revised Article 3—Negotiable Instruments
Amended Article 4—Bank Deposits and
Collections
Article 4A—Funds Transfers
Revised Article 5—(Letters of Credit)
Revised Article 6—Bulk Sales
Revised (1994) Article 8—Investment Securities
and Conforming and Miscellaneous Amendments
Revised Article 9 (Secured Transactions)
(Appendix XVI) and Conforming Amendments
(Appendix XVII)**

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UNIFORM COMMERCIAL CODE

ARTICLE, PART AND SECTION ANALYSIS

ARTICLE 1. GENERAL PROVISIONS

PART 1. SHORT TITLE, CONSTRUCTION, APPLICATION AND SUBJECT MATTER OF THE ACT

Section

- 1-101. Short Title.
- 1-102. Purposes; Rules of Construction; Variation by Agreement.
- 1-103. Supplementary General Principles of Law Applicable.
- 1-104. Construction Against Implicit Repeal.
- 1-105. Territorial Application of the Act; Parties' Power to Choose Applicable Law.
- 1-106. Remedies to Be Liberally Administered.
- 1-107. Waiver or Renunciation of Claim or Right After Breach.
- 1-108. Severability.
- 1-109. Section Captions.

PART 2. GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

- 1-201. General Definitions.
- 1-202. Prima Facie Evidence by Third Party Documents.
- 1-203. Obligation of Good Faith.
- 1-204. Time; Reasonable Time; "Seasonably".
- 1-205. Course of Dealing and Usage of Trade.
- 1-206. Statute of Frauds for Kinds of Personal Property Not Otherwise Covered.
- 1-207. Performance or Acceptance Under Reservation of Rights.
- 1-208. Option to Accelerate at Will.
- 1-209. Subordinated Obligations.

ARTICLE 2. SALES

PART 1. SHORT TITLE, GENERAL CONSTRUCTION AND SUBJECT MATTER

- 2-101. Short Title.
- 2-102. Scope; Certain Security and Other Transactions Excluded From This Article.
- 2-103. Definitions and Index of Definitions.
- 2-104. Definitions: "Merchant"; "Between Merchants"; "Financing Agency".
- 2-105. Definitions: Transferability; "Goods"; "Future" Goods; "Lot"; "Commercial Unit".
- 2-106. Definitions: "Contract"; "Agreement"; "Contract for Sale"; "Sale"; "Present Sale"; "Conforming" to Contract; "Termination"; "Cancellation".
- 2-107. Goods to Be Severed From Realty: Recording.

PART 2. FORM, FORMATION AND READJUSTMENT OF CONTRACT

- 2-201. Formal Requirements; Statute of Frauds.
- 2-202. Final Written Expression: Parol or Extrinsic Evidence.
- 2-203. Seals Inoperative.
- 2-204. Formation in General.

ARTICLE, PART AND SECTION ANALYSIS

Section

- 2-205. Firm Offers.
- 2-206. Offer and Acceptance in Formation of Contract.
- 2-207. Additional Terms in Acceptance or Confirmation.
- 2-208. Course of Performance or Practical Construction.
- 2-209. Modification, Rescission and Waiver.
- 2-210. Delegation of Performance; Assignment of Rights.

PART 3. GENERAL OBLIGATION AND CONSTRUCTION OF CONTRACT

- 2-301. General Obligations of Parties.
- 2-302. Unconscionable Contract or Clause.
- 2-303. Allocation or Division of Risks.
- 2-304. Price Payable in Money, Goods, Realty, or Otherwise.
- 2-305. Open Price Term.
- 2-306. Output, Requirements and Exclusive Dealings.
- 2-307. Delivery in Single Lot or Several Lots.
- 2-308. Absence of Specified Place for Delivery.
- 2-309. Absence of Specific Time Provisions; Notice of Termination.
- 2-310. Open Time for Payment or Running of Credit; Authority to Ship Under Reservation.
- 2-311. Options and Cooperation Respecting Performance.
- 2-312. Warranty of Title and Against Infringement; Buyer's Obligation Against Infringement.
- 2-313. Express Warranties by Affirmation, Promise, Description, Sample.
- 2-314. Implied Warranty: Merchantability; Usage of Trade.
- 2-315. Implied Warranty: Fitness for Particular Purpose.
- 2-316. Exclusion or Modification of Warranties.
- 2-317. Cumulation and Conflict of Warranties Express or Implied.
- 2-318. Third Party Beneficiaries of Warranties Express or Implied.
- 2-319. F.O.B. and F.A.S. Terms.
- 2-320. C.I.F. and C. & F. Terms.
- 2-321. C.I.F. or C. & F.: "Net Landed Weights"; "Payment on Arrival"; Warranty of Condition on Arrival.
- 2-322. Delivery "Ex-Ship".
- 2-323. Form of Bill of Lading Required in Overseas Shipment; "Overseas".
- 2-324. "No Arrival, No Sale" Term.
- 2-325. "Letter of Credit" Term; "Confirmed Credit".
- 2-326. Sale on Approval and Sale or Return; Consignment Sales and Rights of Creditors.
- 2-327. Special Incidents of Sale on Approval and Sale or Return.
- 2-328. Sale by Auction.

PART 4. TITLE, CREDITORS AND GOOD FAITH PURCHASERS

- 2-401. Passing of Title; Reservation for Security; Limited Application of This Section.
- 2-402. Rights of Seller's Creditors Against Sold Goods.
- 2-403. Power to Transfer; Good Faith Purchase of Goods; "Entrusting".

PART 5. PERFORMANCE

- 2-501. Insurable Interest in Goods; Manner of Identification of Goods.
- 2-502. Buyer's Right to Goods on Seller's Insolvency.
- 2-503. Manner of Seller's Tender of Delivery.
- 2-504. Shipment by Seller.
- 2-505. Seller's Shipment Under Reservation.
- 2-506. Rights of Financing Agency.

ARTICLE, PART AND SECTION ANALYSIS

Section

- 2-507. Effect of Seller's Tender; Delivery on Condition.
- 2-508. Cure by Seller of Improper Tender or Delivery; Replacement.
- 2-509. Risk of Loss in the Absence of Breach.
- 2-510. Effect of Breach on Risk of Loss.
- 2-511. Tender of Payment by Buyer; Payment by Check.
- 2-512. Payment by Buyer Before Inspection.
- 2-513. Buyer's Right to Inspection of Goods.
- 2-514. When Documents Deliverable on Acceptance; When on Payment.
- 2-515. Preserving Evidence of Goods in Dispute.

PART 6. BREACH, REPUDIATION AND EXCUSE

- 2-601. Buyer's Rights on Improper Delivery.
- 2-602. Manner and Effect of Rightful Rejection.
- 2-603. Merchant Buyer's Duties as to Rightfully Rejected Goods.
- 2-604. Buyer's Options as to Salvage of Rightfully Rejected Goods.
- 2-605. Waiver of Buyer's Objections by Failure to Particularize.
- 2-606. What Constitutes Acceptance of Goods.
- 2-607. Effect of Acceptance; Notice of Breach; Burden of Establishing Breach After Acceptance; Notice of Claim or Litigation to Person Answerable Over.
- 2-608. Revocation of Acceptance in Whole or in Part.
- 2-609. Right to Adequate Assurance of Performance.
- 2-610. Anticipatory Repudiation.
- 2-611. Retraction of Anticipatory Repudiation.
- 2-612. "Installment Contract"; Breach.
- 2-613. Casualty to Identified Goods.
- 2-614. Substituted Performance.
- 2-615. Excuse by Failure of Presupposed Conditions.
- 2-616. Procedure on Notice Claiming Excuse.

PART 7. REMEDIES

- 2-701. Remedies for Breach of Collateral Contracts Not Impaired.
- 2-702. Seller's Remedies on Discovery of Buyer's Insolvency.
- 2-703. Seller's Remedies in General.
- 2-704. Seller's Right to Identify Goods to the Contract Notwithstanding Breach or to Salvage Unfinished Goods.
- 2-705. Seller's Stoppage of Delivery in Transit or Otherwise.
- 2-706. Seller's Resale Including Contract for Resale.
- 2-707. "Person in the Position of a Seller".
- 2-708. Seller's Damages for Non-acceptance or Repudiation.
- 2-709. Action for the Price.
- 2-710. Seller's Incidental Damages.
- 2-711. Buyer's Remedies in General; Buyer's Security Interest in Rejected Goods.
- 2-712. "Cover"; Buyer's Procurement of Substitute Goods.
- 2-713. Buyer's Damages for Non-delivery or Repudiation.
- 2-714. Buyer's Damages for Breach in Regard to Accepted Goods.
- 2-715. Buyer's Incidental and Consequential Damages.
- 2-716. Buyer's Right to Specific Performance or Replevin.
- 2-717. Deduction of Damages From the Price.
- 2-718. Liquidation or Limitation of Damages; Deposits.
- 2-719. Contractual Modification or Limitation of Remedy.
- 2-720. Effect of "Cancellation" or "Rescission" on Claims for Antecedent Breach.
- 2-721. Remedies for Fraud.
- 2-722. Who Can Sue Third Parties for Injury to Goods.
- 2-723. Proof of Market Price: Time and Place.

ARTICLE, PART AND SECTION ANALYSIS

Section

- 2-724. Admissibility of Market Quotations.
- 2-725. Statute of Limitations in Contracts for Sale.

ARTICLE 2A. LEASES

PART 1. GENERAL PROVISIONS

- 2A-101. Short Title.
- 2A-102. Scope.
- 2A-103. Definitions and Index of Definitions.
- 2A-104. Leases Subject to Other Law.
- 2A-105. Territorial Application of Article to Goods Covered by Certificate of Title.
- 2A-106. Limitation on Power of Parties to Consumer Lease to Choose Applicable Law and Judicial Forum.
- 2A-107. Waiver or Renunciation of Claim or Right After Default.
- 2A-108. Unconscionability.
- 2A-109. Option to Accelerate at Will.

PART 2. FORMATION AND CONSTRUCTION OF LEASE CONTRACT

- 2A-201. Statute of Frauds.
- 2A-202. Final Written Expression: Parol or Extrinsic Evidence.
- 2A-203. Seals Inoperative.
- 2A-204. Formation in General.
- 2A-205. Firm Offers.
- 2A-206. Offer and Acceptance in Formation of Lease Contract.
- 2A-207. Course of Performance or Practical Construction.
- 2A-208. Modification, Rescission and Waiver.
- 2A-209. Lessee Under Finance Lease as Beneficiary of Supply Contract.
- 2A-210. Express Warranties.
- 2A-211. Warranties Against Interference and Against Infringement; Lessee's Obligation Against Infringement.
- 2A-212. Implied Warranty of Merchantability.
- 2A-213. Implied Warranty of Fitness for Particular Purpose.
- 2A-214. Exclusion or Modification of Warranties.
- 2A-215. Cumulation and Conflict of Warranties Express or Implied.
- 2A-216. Third-Party Beneficiaries of Express and Implied Warranties.
- 2A-217. Identification.
- 2A-218. Insurance and Proceeds.
- 2A-219. Risk of Loss.
- 2A-220. Effect of Default on Risk of Loss.
- 2A-221. Casualty to Identified Goods.

PART 3. EFFECT OF LEASE CONTRACT

- 2A-301. Enforceability of Lease Contract.
- 2A-302. Title to and Possession of Goods.
- 2A-303. Alienability of Party's Interest Under Lease Contract or of Lessor's Residual Interest in Goods; Delegation of Performance; Transfer of Rights.
- 2A-304. Subsequent Lease of Goods by Lessor.
- 2A-305. Sale or Sublease of Goods by Lessee.
- 2A-306. Priority of Certain Liens Arising by Operation of Law.
- 2A-307. Priority of Liens Arising by Attachment or Levy on, Security Interests in, and Other Claims to Goods.
- 2A-308. Special Rights of Creditors.
- 2A-309. Lessor's and Lessee's Rights When Goods Become Fixtures.

ARTICLE, PART AND SECTION ANALYSIS

Section

- 2A-310. Lessor's and Lessee's Rights When Goods Become Accessions.
- 2A-311. Priority Subject to Subordination.

PART 4. PERFORMANCE OF LEASE CONTRACT: REPUDIATED, SUBSTITUTED AND EXCUSED

- 2A-401. Insecurity: Adequate Assurance of Performance.
- 2A-402. Anticipatory Repudiation.
- 2A-403. Retraction of Anticipatory Repudiation.
- 2A-404. Substituted Performance.
- 2A-405. Excused Performance.
- 2A-406. Procedure on Excused Performance.
- 2A-407. Irrevocable Promises: Finance Leases.

PART 5. DEFAULT

A. IN GENERAL

- 2A-501. Default: Procedure.
- 2A-502. Notice After Default.
- 2A-503. Modification or Impairment of Rights and Remedies.
- 2A-504. Liquidation of Damages.
- 2A-505. Cancellation and Termination and Effect of Cancellation, Termination, Rescission, or Fraud on Rights and Remedies.
- 2A-506. Statute of Limitations.
- 2A-507. Proof of Market Rent: Time and Place.

B. DEFAULT BY LESSOR

- 2A-508. Lessee's Remedies.
- 2A-509. Lessee's Rights on Improper Delivery; Rightful Rejection.
- 2A-510. Installment Lease Contracts: Rejection and Default.
- 2A-511. Merchant Lessee's Duties as to Rightfully Rejected Goods.
- 2A-512. Lessee's Duties as to Rightfully Rejected Goods.
- 2A-513. Cure by Lessor of Improper Tender or Delivery; Replacement.
- 2A-514. Waiver of Lessee's Objections.
- 2A-515. Acceptance of Goods.
- 2A-516. Effect of Acceptance of Goods; Notice of Default; Burden of Establishing Default After Acceptance; Notice of Claim or Litigation to Person Answerable Over.
- 2A-517. Revocation of Acceptance of Goods.
- 2A-518. Cover; Substitute Goods.
- 2A-519. Lessee's Damages for Non-delivery, Repudiation, Default, and Breach of Warranty in Regard to Accepted Goods.
- 2A-520. Lessee's Incidental and Consequential Damages.
- 2A-521. Lessee's Right to Specific Performance or Replevin.
- 2A-522. Lessee's Right to Goods on Lessor's Insolvency.

C. DEFAULT BY LESSEE

- 2A-523. Lessor's Remedies.
- 2A-524. Lessor's Right to Identify Goods to Lease Contract.
- 2A-525. Lessor's Right to Possession of Goods.
- 2A-526. Lessor's Stoppage of Delivery in Transit or Otherwise.
- 2A-527. Lessor's Rights to Dispose of Goods.
- 2A-528. Lessor's Damages for Non-acceptance, Failure to Pay, Repudiation, or Other Default.
- 2A-529. Lessor's Action for the Rent.

ARTICLE, PART AND SECTION ANALYSIS

Section

- 2A-530. Lessor's Incidental Damages.
- 2A-531. Standing to Sue Third Parties for Injury to Goods.
- 2A-532. Lessor's Rights to Residual Interest.

ARTICLE 3. NEGOTIABLE INSTRUMENTS

PART 1. GENERAL PROVISIONS AND DEFINITIONS

- 3-101. Short Title.
- 3-102. Subject Matter.
- 3-103. Definitions.
- 3-104. Negotiable Instrument.
- 3-105. Issue of Instrument.
- 3-106. Unconditional Promise or Order.
- 3-107. Instrument Payable in Foreign Money.
- 3-108. Payable on Demand or at Definite Time.
- 3-109. Payable to Bearer or to Order.
- 3-110. Identification of Person to Whom Instrument Is Payable.
- 3-111. Place of Payment.
- 3-112. Interest.
- 3-113. Date of Instrument.
- 3-114. Contradictory Terms of Instrument.
- 3-115. Incomplete Instrument.
- 3-116. Joint and Several Liability; Contribution.
- 3-117. Other Agreements Affecting Instrument.
- 3-118. Statute of Limitations.
- 3-119. Notice of Right to Defend Action.

PART 2. NEGOTIATION, TRANSFER, AND INDORSEMENT

- 3-201. Negotiation.
- 3-202. Negotiation Subject to Rescission.
- 3-203. Transfer of Instrument; Rights Acquired by Transfer.
- 3-204. Indorsement.
- 3-205. Special Indorsement; Blank Indorsement; Anomalous Indorsement.
- 3-206. Restrictive Indorsement.
- 3-207. Reacquisition.

PART 3. ENFORCEMENT OF INSTRUMENTS

- 3-301. Person Entitled to Enforce Instrument.
- 3-302. Holder in Due Course.
- 3-303. Value and Consideration.
- 3-304. Overdue Instrument.
- 3-305. Defenses and Claims in Recoupment.
- 3-306. Claims to an Instrument.
- 3-307. Notice of Breach of Fiduciary Duty.
- 3-308. Proof of Signatures and Status as Holder in Due Course.
- 3-309. Enforcement of Lost, Destroyed, or Stolen Instrument.
- 3-310. Effect of Instrument on Obligation for Which Taken.
- 3-311. Accord and Satisfaction by Use of Instrument.
- 3-312. Lost, Destroyed, or Stolen Cashier's Check, Teller's Check, or Certified Check.

PART 4. LIABILITY OF PARTIES

- 3-401. Signature.
- 3-402. Signature by Representative.
- 3-403. Unauthorized Signature.

ARTICLE, PART AND SECTION ANALYSIS

Section

- 3-404. Impostors; Fictitious Payees.
- 3-405. Employer's Responsibility for Fraudulent Indorsement by Employee.
- 3-406. Negligence Contributing to Forged Signature or Alteration of Instrument.
- 3-407. Alteration.
- 3-408. Drawee Not Liable on Unaccepted Draft.
- 3-409. Acceptance of Draft; Certified Check.
- 3-410. Acceptance Varying Draft.
- 3-411. Refusal to Pay Cashier's Checks, Teller's Checks, and Certified Checks.
- 3-412. Obligation of Issuer of Note or Cashier's Check.
- 3-413. Obligation of Acceptor.
- 3-414. Obligation of Drawer.
- 3-415. Obligation of Indorser.
- 3-416. Transfer Warranties.
- 3-417. Presentment Warranties.
- 3-418. Payment or Acceptance by Mistake.
- 3-419. Instruments Signed for Accommodation.
- 3-420. Conversion of Instrument.

PART 5. DISHONOR

- 3-501. Presentment.
- 3-502. Dishonor.
- 3-503. Notice of Dishonor.
- 3-504. Excused Presentment and Notice of Dishonor.
- 3-505. Evidence of Dishonor.

PART 6. DISCHARGE AND PAYMENT

- 3-601. Discharge and Effect of Discharge.
- 3-602. Payment.
- 3-603. Tender of Payment.
- 3-604. Discharge by Cancellation or Renunciation.
- 3-605. Discharge of Indorsers and Accommodation Parties.

ARTICLE 4. BANK DEPOSITS AND COLLECTIONS

PART 1. GENERAL PROVISIONS AND DEFINITIONS

- 4-101. Short Title.
- 4-102. Applicability.
- 4-103. Variation by Agreement; Measure of Damages; Action Constituting Ordinary Care.
- 4-104. Definitions and Index of Definitions.
- 4-105. "Bank"; "Depository Bank"; "Payor Bank"; "Intermediary Bank"; "Collecting Bank"; "Presenting Bank".
- 4-106. Payable Through or Payable at Bank; Collecting Bank.
- 4-107. Separate Office of Bank.
- 4-108. Time of Receipt of Items.
- 4-109. Delays.
- 4-110. Electronic Presentment.
- 4-111. Statute of Limitations.

PART 2. COLLECTION OF ITEMS: DEPOSITARY AND COLLECTING BANKS

- 4-201. Status of Collecting Bank as Agent and Provisional Status of Credits; Applicability of Article; Item Indorsed "Pay Any Bank".
- 4-202. Responsibility for Collection or Return; When Action Timely.
- 4-203. Effect of Instructions.