

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 1361

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S. P. 353

In Senate, March 28, 1977

Referred to Committee on Business Legislation. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Merrill of Cumberland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT Relating to Secured Transactions under the Uniform Commercial Code.**

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Be it enacted by the People of the State of Maine, as follows:

**Sec. 1.** **11 MRSA § 1-105, sub-§ (2)** is amended by adding at the end the following:

**Perfection provisions of the Article on Secured Transactions.**

**Section 9-103-A.**

**Sec. 2.** **11 MRSA § 1-201, sub-§ (9)** is amended by adding after the first sentence a new sentence to read:

**All persons who sell minerals or the like, including oil and gas, at wellhead or minehead shall be deemed to be persons in the business of selling goods of that kind.**

**Sec. 3.** **11 MRSA § 1-201, sub-§ (37), 3rd sentence** is amended to read:

The term also includes any interest of a buyer of accounts or chattel paper ~~or contract rights~~ which is subject to Article 9.

**Sec. 4.** **11 MRSA § 2-107, sub-§ (1)**, as amended by PL 1965, c. 306, § 5, is further amended to read:

(1) A contract for the sale of minerals or the like, including oil and gas, or a structure or its materials to be removed from realty is a contract for the sale of goods within this Article if they are to be severed by the seller but until severance a purported present sale thereof which is not effective as a transfer of an interest in land is effective only as a contract to sell.

Sec. 5. **11 MRSA § 5-116, sub-§ (2), 2nd sentence, is amended to read:**  
Such an assignment is an assignment of ~~a contract right~~ an account under Article 9 on secured transactions and is governed by that Article, except that

Sec. 6. **11 MRSA § 9-102, sub-§ (1), ¶¶ (a) and (b) are amended to read:**

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

(b) To any sale of accounts ~~contract rights~~ or chattel paper.

Sec. 7. **11 MRSA § 9-103, as amended by PL 1967, c. 213, § 12, is repealed.**

Sec. 8. **11 MRSA § 9-103-A is enacted to read:**

**§ 9-103-A. Perfection of security interest in multiple state transactions**

(1) Documents, instruments and ordinary goods.

(a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3) and minerals described in subsection (5).

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

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

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

(i) If the action is not taken before the expiration of the period of perfection in other jurisdiction or the end of 4 months after the collateral is brought into this State, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

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

(iii) For the purpose of priority over a buyer of consumer goods, section 9-307, subsection (3), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(2) Certificate of title.

(a) This subsection applies to goods covered by a certificate of title issued under a statute of this State or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of the security interest are governed by law, including the conflict of laws rules, of the jurisdiction issuing the certificate until 4 months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate.

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

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

(3) Accounts, general intangibles and mobile goods.

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

(b) The law, including the conflict of laws rules, of the jurisdiction in which the debtor is located when the last event occurs on which is based the assertion that the security interest is perfected or unperfected governs the perfection and the effect of perfection or nonperfection of the security interest.

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

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

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of 4 months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

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

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

Sec. 9. 11 MRSA § 9-104, sub-§ (5) is repealed.

Sec. 10. 11 MRSA § 9-104, sub-§ 5-A is enacted to read:

(5-A) To a transfer by a government or governmental subdivision or agency; or

Sec. 11. 11 MRSA § 9-104, sub-§§ (6), (7), (8) and (11), are amended to read:

(6) To a sale of accounts ~~contract rights~~ or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts

~~contract rights~~ or chattel paper which is for the purpose of collection only, or a transfer of a ~~contract right to payment under a contract~~ to an assignee who is also to do the performance under the contract or a **transfer of a single account to an assignee in whole or partial satisfaction of a preexisting indebtedness**; or

(7) To a transfer of an interest or claim in or under any policy of insurance, **except as provided with respect to proceeds, section 9-306, and priorities in proceeds, section 9-312**; or

(8) To a right represented by a judgment, **other than a judgment taken on a right to payment which was collateral**; or

(11) To a transfer in whole or in part of any of the following: Any claim arising out of tort; ~~any deposit, saving, passbook, or like account maintained with a bank, savings and loan association, credit union or like organization~~; or

Sec. 12. 11 MRSA § 9-104, sub-§ (12) is enacted to read:

(12) To a transfer of an interest in any deposit account of section 9-105, subsection (1), except as provided with respect to proceeds, section 9-306, and priorities in proceeds, section 9-312.

Sec. 13. 11 MRSA § 9-105, sub-§ (1), ¶ (a), is amended to read:

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

Sec. 14. 11 MRSA § 9-105, sub-§ 1, ¶ (b), first sentence, is amended to read:

"Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, **but a charter or other contract involving the use or hire of a vessel is not chattel paper.**

Sec. 15. 11 MRSA § 9-105, sub-§ (1), ¶ (c) is amended to read:

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

Sec. 16. 11 MRSA § 9-105, sub-§ (1), ¶ (d), first sentence, is amended to read:

"Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts ~~contract rights~~ or chattel paper.

Sec. 17. 11 MRSA § 9-105, sub-§ (1), ¶ (d-1) is enacted to read:

(d-1) **Deposit account.** "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

Sec. 18. 11 MRSA § 9-105, sub-§ (1), ¶ (e) is amended to read:

(e) Document. "Document" means document of title as defined in the general definitions in Article 1 (section 1-201) and a receipt of the kind described in section 7-201, subsection (2);

Sec. 19. 11 MRSA § 9-105, sub-§ (1), ¶ (e-1) is enacted to read:

(e-1) Encumbrance. "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

Sec. 20. 11 MRSA § 9-105, sub-§ (1), ¶ (f) as amended by PL 1965, c. 306, § 21, is repealed and the following enacted in its place:

(f) Goods. "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (section 9-313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles or minerals of the like, including oil and gas, before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract of sale, the unborn young of animals and growing crops;

Sec. 21. 11 MRSA § 9-105, sub-§ (1), ¶¶ (g-1) and (g-2) are enacted to read:

(g-1) Mortgage. "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate or the like;

(g-2) Pursuant to commitment. An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation.

Sec. 22. 11 MRSA § 9-105, sub-§ (1), ¶ (i), first sentence, is amended to read:

"Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts ~~contract~~ ~~rights~~ or chattel paper have been sold.

Sec. 23. 11 MRSA § 9-105, sub-§ (1), ¶ (j) is enacted to read:

(j) Transmitting utility. "Transmitting utility" means trolley bus business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water or the provision of sewer service.

Sec. 24. 11 MRSA § 9-105, sub-§ (2) is amended to read:

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

"Account."

"Attach."

"Construction mortgage."

Section 9-106.

Section 9-203.

Section 9-313, subsection (1).

“Consumer goods.”	Section 9-109, subsection (1).
“Contract right.”	Section 9-106.
“Equipment.”	Section 9-109, subsection (2).
“Farm products.”	Section 9-109, subsection (3).
“Fixture.”	<b>Section 9-313.</b>
“Fixture filing.”	<b>Section 9-313.</b>
“General intangibles.”	Section 9-106.
“Inventory.”	Section 9-109, subsection (4).
“Lien creditor.”	Section 9-301, subsection (3).
“Proceeds.”	Section 9-306, subsection (1).
“Purchase money security interest.”	Section 9-107.
“United States.”	<b>Section 9-103 -A.</b>

Sec. 25. 11 MRSA § 9-106 is repealed and the following enacted in its place:

§ 9-106. Definitions: “Account;” “contract right;” “general intangibles”

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

Sec. 26. 11 MRSA § 9-114 is enacted to read:

§ 9-114. Consignment

(1) A person who delivers goods under a consignment which is not a security interest and who would be required to file under this section 2-326, subsection (3), paragraph (c), has priority over a secured party who is or becomes a creditor of the consignee and who would have a perfected security interest in the goods if they were the property of the consignee and also has priority with respect to identifiable cash proceeds received on or before delivery of the goods to a buyer, if

(a) The consignor complies with the filing provisions of this Article on sales with respect to consignments, section 2-326, subsection (3), paragraph (c), before the consignee receives possession of the goods; and

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

(c) The holder of the security interest receives the notification within 5 years before the consignee receives possession of the goods; and

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



(2) In case of a consignment which is not a security interest and in which the requirements of subsection (1) have not been met, a person who delivers goods to another is subordinate to a person who would have perfected security interest in the goods if they were the property of the debtor.

Sec. 27. 11 MRSA § 9-203, sub-§ (1) is repealed and the following enacted in its place:

(1) Subject to the provisions of section 4-208 on the security interest of a collecting bank and section 9-113 on a security interest arising under the Article on sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless

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

(a-1) Value has been given; and

(b) The debtor has rights in the collateral.

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

(1-B) Unless otherwise agreed, a security agreement gives the secured party the rights to proceeds provided in section 9-306.

Sec. 28. 11 MRSA § 9-204, sub-§ (1) is repealed and the following enacted in its place:

(1) Except as provided in subsection (1-A), a security agreement may provide that any or all obligations covered by the security agreement are to be secured by after-acquired collateral.

Sec. 29. 11 MRSA § 9-204, sub-§ (1-A) is enacted to read:

(1-A) No security interest attaches under an after-acquired property clause to consumer goods other than accessions, section 9-314, when given as additional security unless the debtor acquires rights in them within 10 days after the secured party gives value.

Sec. 30. 11 MRSA § 9-204, sub-§ (2), as amended by PL 1965, c. 306, § 23, is repealed.

Sec. 31. 11 MRSA § 9-204, sub-§§ (3) and (4) are repealed.

Sec. 32. 11 MRSA § 9-204, sub-§ (5) is amended to read:

(5) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment, section 9-105, subsection (1).

**Sec. 33.** II MRSA § 9-205, first sentence, is amended to read:

A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts ~~contract rights~~ or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral.

**Sec. 34.** II MRSA § 9-301, sub-§ (1), ¶¶ (b), (c) and (d) are amended to read:

(b) A person who becomes a lien creditor ~~without knowledge of the security interest and~~ before ~~it~~ the security interest is perfected;

(c) In the case of goods, instruments, documents and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business, ~~or is a buyer of farm products in ordinary course of business,~~ to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

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

**Sec. 35.** II MRSA § 9-301, sub-§ (2), as enacted by PL 1969, c. 389, § 1, is amended to read:

(2) If the secured party files with respect to a purchase money security interest before or within 20 days after the ~~debtor receives possession of the collateral comes into possession of the debtor,~~ he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

**Sec. 36.** II MRSA § 9-301, sub-§ (3), last sentence, is repealed.

**Sec. 37.** II MRSA § 9-301, sub-§ (4) is enacted to read:

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

**Sec. 38.** II MRSA § 9-302, sub-§ (1), ¶ (c) is repealed.

**Sec. 39.** II MRSA § 9-302, sub-§ (1), ¶¶ (c-1) and (c-2) are enacted to read:

(c-1) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(c-2) A purchase money security interest in consumer goods where the amount financed, as defined in Title 9-A, section 1-301, subsection 5, paragraph A, is less than \$1,000, but fixture filing is required for priority over conflicting interests in fixtures to the extent provided in section 9-313.

Sec. 40. 11 MRSA § 9-302, sub-§ (1), ¶ (d) is amended to read:

(d) An assignment of account ~~or contract rights~~ which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts ~~or contract rights~~ of the assignor;

Sec. 41. 11 MRSA § 9-302, sub-§§ (3) and (4) are repealed and the following enacted in their place:

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

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

(b) The following statutes: Title to motor vehicles, Title 29, section 2350 et seq., but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this Article, Part 4, apply to a security interest in that collateral created by him as debtor; or

(c) A certificate of title statute or another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection, section 9-103-A, subsection (2).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this Article and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith, except as provided in section 9-103-A on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty. In other respects the security interest is subject to this Article.

Sec. 42. 11 MRSA § 9-304, sub-§ (1) last sentence, is amended to read:

A security interest in money or instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) and section 9-306, subsections (2) and (3) on proceeds.

Sec. 43. 11 MRSA § 9-304, sub-§ (5), ¶ (a), is amended to read:

(a) Makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their

sale or exchange but priority between conflicting security interests in the goods is subject to section 9-312, subsection (3); or

**Sec. 44.** **11 MRSA § 9-305, 1st sentence, is amended to read:**

A security interest in letters of credit and advices of credit (section 5-116, subsection (2), paragraph (a) ), goods instruments, **money**, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral.

**Sec. 45.** **11 MRSA § 9-306, sub-§ (1) is repealed and the following enacted in its place:**

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

**Sec. 46.** **11 MRSA § 9-306, sub-§ (2) is amended to read:**

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

**Sec. 47.** **11 MRSA § 9-306, sub-§ (3), paragraph (a) is repealed and the following enacted in its place:**

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

**Sec. 48.** **11 MRSA § 9-306, sub-§ (3), paragraph (a-1) is enacted to read:**

(a-1) **A filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds; or**

**Sec. 49.** **11 MRSA § 9-306, sub-§ (3) is amended by adding at the end a new paragraph to read:**

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

**Sec. 50.** **11 MRSA § 9-306, sub-§ (4) is amended to read:**

(4) **In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest only in the following proceeds:**

(a) In identifiable noncash proceeds and in separate deposit accounts containing only proceeds;

(b) In identifiable cash proceeds in the form of money which is ~~not~~ neither commingled with other money ~~or~~ nor deposited in a ~~bank~~ deposit account prior to the insolvency proceedings;

(c) In identifiable cash proceeds in the form of checks and the like which are not deposited in a ~~bank~~ deposit account prior to the insolvency proceedings; and

(d) In all cash and ~~bank~~ deposit accounts of the debtor ~~if other cash in which~~ proceeds have been commingled ~~or deposited in a bank account with~~ other funds but the perfected security interest under this paragraph is

(i) Subject to any right of setoff; and

(ii) Limited to an amount not greater than the amount of any cash proceeds received by the debtor within 10 days before the institution of the insolvency proceedings ~~and commingled or deposited in a bank account prior to the insolvency proceedings less the amount of cash proceeds received by the debtor and paid over to the secured party during the 10 day period less the sum of the payments to the secured party on account of cash proceeds received by the debtor during such period and the cash proceeds received by the debtor during such period to which the secured party is entitled under paragraphs (a) through (c).~~

Sec. 51. ~~II MRSA § 9-307, sub-§ (2), as amended by PL 1965, c. 306, § 27, is repealed.~~

Sec. 52. ~~II MRSA § 9-307, sub-§ (3) is enacted to read:~~

(3) A buyer other than a buyer in ordinary course of business, subsection (1), takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than 45 days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the 45-day period.

Sec. 53. ~~II MRSA § 9-308 is repealed and the following enacted in its place:~~

§ 9-308. Purchase of chattel paper and instruments

A purchaser of chattel paper or an instrument who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in the chattel paper or instrument:

(1) Which is perfected under section 9-304, permissive filing and temporary perfection, or under section 9-306, perfection as to proceeds, if he acts without knowledge that the specific paper or instrument is subject to a security interest; or

(2) Which is claimed merely as proceeds of inventory subject to a security interest, section 9-306, even though he knows that the specific paper or instrument is subject to the security interest.

Sec. 54. **11 MRSA § 9-312, sub-§ (1)** is repealed and the following enacted in its place:

(1) The rules of priority stated in other sections of this Part and in the following sections shall govern when applicable: Section 4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; section 9-103-A on security interests related to other jurisdictions; and section 9-114 on consignments.

Sec. 55. **11 MRSA § 9-312, sub-§ (3), first paragraph**, is repealed and the following enacted in its place:

A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer, if

Sec. 56. **11 MRSA § 9-312, sub-§ (3), ¶ (a)** is repealed and the following enacted in its place:

(a) The purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

Sec. 57. **11 MRSA § 9-312, sub-§ (3), ¶ (b)** is repealed.

Sec. 58. **11 MRSA § 9-312, sub-§ (3), ¶¶ (b-1) and (b-2)** are enacted to read:

(b-1) The purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory before the date of the filing made by the purchase money secured party or before the beginning of the 21-day period where the purchase money security interest is temporarily perfected without filing or possession, section 9-304, subsection (5); and

(b-2) The holder of the conflicting security interest receives the notification within 5 years before the debtor receives possession of the inventory; and

Sec. 59. **11 MRSA § 9-312, sub-§ (4)**, as amended by PL 1969, c. 389, § 2, is further amended to read:

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral ~~if~~ **or its proceeds** for the purchase money security interest ~~is~~ **is** if perfected at the time the debtor receives possession of the collateral or within 20 days thereafter.

Sec. 60. **11 MRSA § 9-312, sub-§ (5), 1st ¶**, is amended to read:

In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) ~~of this section~~), priority between conflicting security interests in the same collateral shall be determined ~~as follows~~ **according to the following rules:**

Sec. 61. **11 MRSA § 9-312, sub-§ (5), ¶¶ (a), (b) and (c) are repealed.**

Sec. 62. **11 MRSA § 9-312, sub-§ (5), ¶¶ (d) and (e) are enacted to read:**

(d) **Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection; and**

(e) **So long as conflicting security interests are unperfected, the first to attach has priority.**

Sec. 63. **11 MRSA § 9-312, sub-§ (6) is repealed.**

Sec. 64. **11 MRSA § 9-312, sub-§§ (7) and (8) are enacted to read:**

(7) **For the purposes of subsection (5), a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.**

(8) **If future advances are made while a security interest is perfected by filing or the taking of possession, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases, a perfected security interest has priority from the date the advance is made.**

Sec. 65. **11 MRSA § 9-313, sub-§ (1) is repealed.**

Sec. 66. **11 MRSA § 9-313, sub-§ (1-A) is enacted to read:**

(1-A) **In this section and in the provisions of Part 4 of this Article referring to fixture filing, unless the context otherwise requires:**

(a) **Goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;**

(b) **A "fixture filing" is the filing in the office where a mortgage on the real estate would be filed or recorded of a financing statement covering goods which are or are to become fixtures and conforming to the requirements of section 9-402, subsection (4-A); and**

(c) **A mortgage is a "construction mortgage" to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.**

Sec. 67. **11 MRSA § 9-313, sub-§ (2) is repealed and the following enacted in its place:**

(2) **A security interest under this Article may be created in goods which are fixtures or may continue in goods which become fixtures, but no security interest exists under this Article in ordinary building materials incorporated into an improvement on land.**

Sec. 68. **11 MRSA § 9-313, sub-§ (3) is repealed.**

Sec. 69. 11 MRSA § 9-313, sub-§ (3-A) is enacted to read:

(3-A) This Article does not prevent creation of an encumbrance upon fixtures pursuant to real estate law.

Sec. 70. 11 MRSA § 9-313, sub-§ (4) is repealed.

Sec. 71. 11 MRSA § 9-313, sub-§§ (4-A) to (4-D) are enacted to read:

(4-A) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where:

(a) The security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods becomes fixtures, the security interest is perfected by a fixture filing before the goods become fixtures or within 10 days thereafter, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(b) The security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the security interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(c) The fixtures are readily removable factory or office machines or readily removable replacements of domestic appliances which are consumer goods, and before the goods become fixtures the security interest is perfected by any method permitted by this Article; or

(d) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this Article.

(4-B) A security interest in fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate where:

(a) The encumbrancer or owner has consented in writing to the security interest or has disclaimed an interest in the goods as fixtures; or

(b) The debtor has a right to remove the goods as against the encumbrancer or owner. If the debtor's right terminates, the priority of the security interest continues for a reasonable time.

(4-C) Notwithstanding subsection (4-A), paragraph (a) but otherwise subject to subsections (4-A) and (4-B), a security interest in fixtures is subordinate to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent that it is given to refinance a construction mortgage, a mortgage has this priority to the same extent as the construction mortgage.

(4-D) In cases not within the preceding subsections, a security interest in fixtures is subordinate to the conflicting interest of an encumbrancer or owner of the related estate who is not the debtor.



Sec. 72. **11 MRSA § 9-313, sub-§ (5), 1st sentence, is amended to read:**  
 When ~~under subsections (2) or (3) and (4) a~~ the secured party has priority over ~~the claims of all persons who have interests in all owners and encumbrancers~~ of the real estate, he may, on default, subject to the provisions of Part 5, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity ~~for~~ of replacing them.

Sec. 73. **11 MRSA § 9-318, sub-§ (2), 1st sentence, is amended to read:**  
 So far as the right to payment or a part thereof under an assigned contract ~~right has not already become an account has not been fully earned by performance,~~ and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee, unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract.

Sec. 74. **11 MRSA § 9-318, sub-§ (3), 1st sentence, is amended to read:**  
 The account debtor is authorized to pay the assignor until the account debtor receives notification that the ~~account amount due or to become due~~ has been assigned and that payment is to be made to the assignee.

Sec. 75. **11 MRSA § 9-318, sub-§ (4) is amended to read:**  
 (4) A term in any contract between an account debtor and an assignor ~~which is ineffective if it prohibits assignment of an account or contract right to which they are parties is ineffective or prohibits creation of a security interest in a general intangible for money due or to become due or requires the account debtor's consent to such assignment or security interest.~~

Sec. 76. **11 MRSA § 9-401, sub-§ (1), ¶ (a), as repealed and replaced by PL 1975, c. 770, § 60, is repealed.**

Sec. 77. **11 MRSA § 9-401, sub-§ (1), ¶ (b) is repealed.**

Sec. 78. **11 MRSA § 9-401, sub-§ (1), ¶ (b-1) is enacted to read:**

(b-1) **When the collateral is timber to be cut or is minerals or the like, including oil and gas, or accounts subject to section 9-103-A, subsection (5), or is crops growing or to be grown, or when the financing statement is filed as a fixture filing, section 9-313, and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;**

Sec. 79. **11 MRSA § 9-401, sub-§ (3) is amended to read:**

(3) A filing which is made in the proper place in this State continues effective even though the debtor's residence or place of business ~~or legal status as a corporation~~ or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

Sec. 80. **11 MRSA § 9-401, sub-§ (4) is amended to read:**

(4) ~~If collateral is brought into this State from another jurisdiction, the~~ The rules stated in section 9-103 determine whether filing is necessary in this State.

Sec. 81. ~~II~~ MRSA § 9-401, sub-§ (5) is repealed.

Sec. 82. ~~II~~ MRSA § 9-401, sub-§ (6) is enacted to read:

(6) Notwithstanding the preceding subsections and section 9-302, subsection (3), the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. This filing constitutes a fixture filing, section 9-313, as to the collateral described therein which is or is to become fixtures.

Sec. 83. ~~II~~ MRSA § 9-402, sub-§ (1), is amended to read:

(1) A financing statement is sufficient, if it gives the names of the debtors and the secured party, is signed by the debtor ~~and the secured party~~, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown ~~or goods which are or are to become fixtures~~, the statement must also contain a ~~general~~ description of the real estate concerned ~~and the name of the record owner thereof~~. When the financing statement covers timber to be cut or covers minerals or the like, including oil and gas, or accounts subject to section 9-103-A, subsection (5), or covers crops growing or to be grown, or when the financing statement is filed as a fixture filing, section 9-313, and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (4-A). A copy of the security agreement is sufficient as a financing statement, if it contains the above information and is signed by ~~both parties~~ the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this State.

Sec. 84. ~~II~~ MRSA § 9-402, sub-§ (2), is amended to read:

(2) A financing statement which otherwise complies with subsection (1) is sufficient, ~~although when~~ it is signed ~~only~~ by the secured party ~~when instead of the debtor~~ if it is filed to perfect a security interest in

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this State, ~~or when the debtor's location is changed to this State~~. Such a financing statement must state that the collateral was brought into this State ~~or that the debtor's location was changed to this State~~ under such circumstances; or

(b) Proceeds under section 9-306, if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) Collateral as to which the filing has lapsed; or

(d) Collateral acquired after a change of name, identity or corporate structure of the debtor, subsection (4-C).

Sec. 85. 11 MRSA § 9-402, sub-§ (3) is repealed and the following enacted in its place:

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor) .....

Mailing address .....

Name of secured party (or assignee) .....

Address .....

1. This financing statement covers the following types (or items) of property:  
 (Describe) .....
2. (If collateral is crops) The above described crops are growing or are to be grown on:  
 (Describe Real Estate) .....
3. (If applicable) The above goods are to become fixtures on\*  
 (Describe Real Estate) .....

\*Where appropriate substitute either "The above timber is standing on ....." or "The above minerals or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on ....."

4. If the debtor does not have an interest of record, the name of the record owner is .....
5. (If products of collateral are claimed)  
 Products of the collateral are also covered.

use whichever .....  
Signature of Debtor (or Assignor)

is applicable .....  
Signature of Secured Party (or Assignee)

Sec. 86. 11 MRSA § 9-402, sub-§ (4) is repealed and the following enacted in its place:

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this section, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

Sec. 87. **11 MRSA § 9-402, sub-§§ (4-A), (4-B) and (4-C)** are enacted to read:

**(4-A)** A financing statement covering timber to be cut or covering minerals or the like, including oil and gas, or accounts subject to section 9-103-A, subsection (5), or covering crops growing or to be grown, or a financing statement filed as a fixture filing, section 9-313, where the debtor is not a transmitting utility, must show that it covers this type of collateral and the financing statement must contain a description of the real estate. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

**(4-B)** A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if the goods are described in the mortgage by item or type, the goods are to become fixtures related to the real estate described in the mortgage, the mortgage complies with the requirements for a financing statement in this section and the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

**(4-C)** A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

Sec. 88. **11 MRSA § 9-403, sub-§ (2)**, is repealed and the following enacted in its place:

**(2)** Except as provided in subsection (6), a filed financing statement is effective for a period of 5 years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the 5-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the 5-year period, whichever occurs later. Upon lapse, the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected against a person who became a purchaser or lien creditor before lapse.

Sec. 89. **11 MRSA § 9-403, sub-§ (3)** is repealed and the following enacted in its place:

**(3)** A continuation statement may be filed by the secured party within 6 months prior to the expiration of the 5-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective and if the continuation statement covers timber to be cut, minerals or the like, including oil and gas, or accounts subject to section 9-103-A, subsection (5), or crops growing or to be grown or fixtures, it shall contain the name of the record owner. Unless an assignment is a mat-

ter of record, a continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with section 9-405, subsection (2), including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for 5 years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2), unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than 5 years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained.

Sec. 90. 11 MRSA § 9-403, sub-§ (4), as amended by PL 1967, c. 213, § 4, is repealed and the following enacted in its place:

(4) Except as provided in subsection (7), a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. The filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement. In addition, if the financing statement is filed in the office of a register of deeds and contains the name of a record owner of real estate, the filing officer shall also index the statement according to the name of the record owner of the real estate. The index may be made up of the statements themselves, copies thereof, separate cards or otherwise.

Sec. 91. 11 MRSA § 9-403, sub-§§ (6) and (7) are enacted to read:

(6) If the debtor is a transmitting utility, section 9-401, subsection (6), and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under section 9-402, subsection (4-B), remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement, continuation statement, termination statement, statement of assignment or a statement of release covers timber to be cut or covers minerals or the like, including oil and gas, or accounts subject to section 9-104, subsection (5-A), or covering crops growing or to be grown, or is filed as a fixture filing, the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of

the real estate described, and under the name of the secured party as if he were the mortgagee thereunder.

Sec. 92. **11 MRSA § 9-404, sub-§ (2)**, is repealed and the following enacted in its place:

(2) On presentation to the filing officer of such a termination statement, he must note it in the index. If he has received the termination statement in duplicate, he shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof. If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, he may remove the originals from the files at any time after receipt of the termination statement, or if he has no such record, he may remove them from the files at any time after one year after receipt of the termination statement.

Sec. 93. **11 MRSA § 9-405, sub-§ (1)**, 1st 2 sentences, are amended to read:

A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. ~~Either the original secured party or the assignee may sign this statement as the secured party~~

Sec. 94. **11 MRSA § 9-405, sub-§ (2)**, 1st sentence, is amended to read:

A secured party may assign of record all or a part of his rights under a financing statement by filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned.

Sec. 95. **11 MRSA § 9-405, sub-§ (2)**, next to last sentence, is amended to read:

He shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like, including oil and gas, or accounts subject to section 9-103-A, subsection (5), or covering crops growing or to be grown, he shall index the assignment under the name of the assignor as grantor and, he shall index the assignment of the financing statement under the name of the assignee.

Sec. 96. **11 MRSA § 9-405, sub-§ (2)** is amended by adding at the end the following new sentence:

Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing, section 9-402, subsection (4-B), may be made only by an assignment

of the mortgage in the manner provided by the laws of this State other than this Title.

**Sec. 97.** **II MRSA § 9-406**, as amended by PL 1969, c. 225, § 8, is further amended by adding after the 2nd sentence, the following new sentence:

Unless an assignment is a matter of record, a statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with section 9-405, subsection (2), including payment of the required fee.

**Sec. 98.** **II MRSA § 9-406**, next to last sentence and last sentence, as amended by PL 1969, c. 225, § 8, are further amended to read:

Upon presentation of such a statement of release to the filing officer, he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be \$3.

**Sec. 99.** **II MRSA § 9-407, sub-§ (2)**, 1st 2 sentences, as repealed and replaced by PL 1969, c. 302, § 2, are amended to read:

Upon the request of any person, the ~~Secretary of State or the register of deeds~~ **filing officer** shall issue his certificate of information, in such form as the Secretary of State may approve, showing whether there is on file on the date and hour stated therein any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be \$2 for the first page of such certificate, plus 50¢ for each additional page.

**Sec. 100.** **II MRSA § 9-408** is repealed.

**Sec. 101.** **II MRSA § 9-408-A** is enacted to read:

**§ 9-408-A. Financing statements covering consigned or leased goods**

A consignor or lessor of goods may file a financing statement using the terms "consignor," "consignee," "lessor," "lessee" or the like instead of the terms specified in section 9-402. The provisions of this Part shall apply as appropriate to such a financing statement but its filing shall not of itself be a factor in determining whether or not the consignment or lease is intended as security, section 1-201, subsection (37). However, if it is determined for other reasons that the consignment or lease is so intended, a security interest of the consignor or lessor which attaches to the consigned or leased good is perfected by such filing.

**Sec. 102.** **II MRSA § 9-501, sub-§ (3)**, 1st sentence, is amended to read:

To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to below may not be waived or varied except as provided with respect to compulsor disposition of collateral (~~subsection (1)~~ of section 9-504, subsection (3) and section 9-505) and with respect to redemption of collateral (section 9-506) but the

parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

**Sec. 103.** **II MRSA § 9-502, sub-§ (2), last sentence,** is amended to read:

But, if the underlying transaction was a sale of accounts ~~contract rights~~ or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

**Sec. 104.** **II MRSA § 9-504, sub-§ (1), ¶ (a)** is amended to read:

(a) The reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

**Sec. 105.** **II MRSA § 9-504, sub-§ (2)** is amended to read:

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus, and unless otherwise agreed, the debtor is liable for any deficiency. But, if the underlying transaction was a sale of accounts ~~contract rights~~ or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

**Sec. 106.** **II MRSA § 9-504, sub-§ (3), 2nd sentence,** as amended by PL 1965, c. 306, § 29-A, is further amended to read:

Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor ~~and to any other person who has a security interest in the collateral and who has duly filed a financial statement indexed in the name of the debtor in this State or who is known by the secured party to have a security interest in the collateral~~ if, except in the case of consumer goods, he has not signed after default a statement renouncing or modifying his right to notification of sale. In the case of consumer goods, no other notification need be sent. In other cases, notification shall be sent to any other secured party from whom the secured party has received, before sending his notification to the debtor or before the debtor's renunciation of his rights, written notice of a claim of an interest in the collateral.

**Sec. 107.** **II MRSA § 9-505, sub-§ (2),** is repealed and the following enacted in its place:

(2) In any other case involving consumer goods or any other collateral, a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor if he has not signed after default a statement renouncing or modifying his rights under this subsection. In the case of consumer goods, no other notice need be given. In other cases, notice shall be sent to any other secured party from whom the secured party has received, before sending his



notice to the debtor or before the debtor's renunciation of his rights, written notice of a claim of an interest in the collateral. If the secured party receives objection in writing from a person entitled to receive notification within 21 days after the notice was sent, the secured party must dispose of the collateral under section 9-504. In the absence of such written objection, the secured party may retain the collateral in satisfaction of the debtor's obligation.

STATEMENT OF FACT

This bill relates to secured transactions under the Uniform Commercial Code.