

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

operation for the purposes of Title 17, section 2805 as defined in section 152, subsection 6.

Sec. 2. 7 MRSA §1052, sub-§2-A is enacted to read:

2-A. Reporting. A manufacturer selling genetically engineered plant parts, plants or seeds in the State shall annually report to the commissioner the total potential acreage at a given planting density of genetically modified crops that could be grown based on the amount of each genetically engineered product sold in the State. Individual manufacturer data received under this subsection is confidential and may not be made public. The commissioner shall make public aggregate data that does not reveal the sales activities of an individual manufacturer. The commissioner shall provide aggregate data on sales of genetically engineered trees, tree seedlings, tree seeds, tree scions and other propagative materials to the Department of Conservation, Bureau of Forestry.

See title page for effective date.

CHAPTER 324

S.P. 508 - L.D. 1405

An Act To Implement the Updates to Article 7 of the Uniform Commercial Code Suggested by the National Conference of Commissioners on Uniform State Laws

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

PART A

Sec. A-1. 11 MRSA art. 7, as amended, is repealed.

Sec. A-2. 11 MRSA art. 7-A is enacted to read:

ARTICLE 7-A

DOCUMENTS OF TITLE

PART 1

GENERAL

§7-1101. Short title

This Article may be known and cited as "the Uniform Commercial Code - Documents of Title."

§7-1102. Definitions and index of definitions

(1). In this Article, unless the context otherwise requires, the following terms have the following meanings.

(a). "Bailee" means a person that by a warehouse receipt, bill of lading or other document of title acknowledges possession of goods and contracts to deliver them.

(b). "Carrier" means a person that issues a bill of lading.

(c). "Consignee" means a person named in a bill of lading to which or to whose order the bill promises delivery.

(d). "Consignor" means a person named in a bill of lading as the person from which the goods have been received for shipment.

(e). "Delivery order" means a record that contains an order to deliver goods directed to a warehouse, carrier or other person that in the ordinary course of business issues warehouse receipts or bills of lading.

(f). "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(g). "Goods" means all things that are treated as movable for the purposes of a contract for storage or transportation.

(h). "Issuer" means a bailee that issues a document of title or, in the case of an unaccepted delivery order, the person that orders the possessor of goods to deliver. The term includes a person for which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, even if the issuer did not receive any goods, the goods were misdescribed or in any other respect the agent or employee violated the issuer's instructions.

(i). "Person entitled under the document" means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

(j). "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(k). "Sign" means, with present intent to authenticate or adopt a record:

- (i) To execute or adopt a tangible symbol; or
- (ii) To attach to or logically associate with the record an electronic sound, symbol, or process.

(l). "Shipper" means a person that enters into a contract of transportation with a carrier.

(m). "Warehouse" means a person engaged in the business of storing goods for hire.

(2). Definitions in other Articles applying to this Article and the sections in which they appear are:

(a). "Contract for sale," section 2-106;

(b). "Lessee in the ordinary course of business," section 2-1103; and

(c). "Receipt" of goods, section 2-103.

(3). In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

§7-1103. Relation of Article to treaty or statute

(1). This Article is subject to any treaty or statute of the United States or regulatory statute of this State to the extent the treaty, statute or regulatory statute is applicable.

(2). This Article does not modify or repeal any law prescribing the form or content of a document of title or the services or facilities to be afforded by a bailee or otherwise regulating a bailee's business in respects not specifically treated in this Article. However, violation of such a law does not affect the status of a document of title that otherwise is within the definition of a document of title.

(3). This Article modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001, et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 United States Code, Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b).

(4). To the extent there is a conflict between the Uniform Electronic Transactions Act and this Article, this Article governs.

§7-1104. Negotiable and nonnegotiable document of title

(1). Except as otherwise provided in subsection (3), a document of title is negotiable if by its terms the goods are to be delivered to bearer or to the order of a named person.

(2). A document of title other than one described in subsection (1) is nonnegotiable. A bill of lading that states that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against an order in a record signed by the same or another named person.

(3). A document of title is nonnegotiable if, at the time it is issued, the document has a conspicuous legend, however expressed, that it is nonnegotiable.

§7-1105. Reissuance in alternative medium

(1). Upon request of a person entitled under an electronic document of title, the issuer of the electronic document may issue a tangible document of title as a substitute for the electronic document if:

(a). The person entitled under the electronic document surrenders control of the document to the issuer; and

(b). The tangible document when issued contains a statement that it is issued in substitution for the electronic document.

(2). Upon issuance of a tangible document of title in substitution for an electronic document of title in accordance with subsection (1):

(a). The electronic document ceases to have any effect or validity; and

(b). The person that procured issuance of the tangible document warrants to all subsequent persons entitled under the tangible document that the warrantor was a person entitled under the electronic document when the warrantor surrendered control of the electronic document to the issuer.

(3). Upon request of a person entitled under a tangible document of title, the issuer of the tangible document may issue an electronic document of title as a substitute for the tangible document if:

(a). The person entitled under the tangible document surrenders possession of the document to the issuer; and

(b). The electronic document when issued contains a statement that it is issued in substitution for the tangible document.

(4). Upon issuance of an electronic document of title in substitution for a tangible document of title in accordance with subsection (3):

(a). The tangible document ceases to have any effect or validity; and

(b). The person that procured issuance of the electronic document warrants to all subsequent persons entitled under the electronic document that the warrantor was a person entitled under the tangible document when the warrantor surrendered possession of the tangible document to the issuer.

§7-1106. Control of electronic document of title

(1). A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(2). A system satisfies subsection (1), and a person is deemed to have control of an electronic document of title, if the document is created, stored and assigned in such a manner that:

(a). A single authoritative copy of the document exists that is unique, identifiable and, except as otherwise provided in paragraphs (d), (e) and (f), unalterable;

(b). The authoritative copy identifies the person asserting control as:

(i) The person to which the document was issued; or

(ii) If the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(c). The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(d). Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(e). Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f). Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

PART 2

WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

§7-1201. Person that may issue a warehouse receipt; storage under bond

(1). A warehouse receipt may be issued by any warehouse.

(2). If goods, including distilled spirits and agricultural commodities, are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods is deemed to be a warehouse receipt even if issued by a person that is the owner of the goods and is not a warehouse.

§7-1202. Form of warehouse receipt; effect of omission

(1). A warehouse receipt need not be in any particular form.

(2). Unless a warehouse receipt provides for each of the following, the warehouse is liable for damages caused to a person injured by its omission:

(a). A statement of the location of the warehouse facility where the goods are stored;

(b). The date of issue of the receipt;

(c). The unique identification code of the receipt;

(d). A statement whether the goods received will be delivered to the bearer, to a named person or to a named person or its order;

(e). The rate of storage and handling charges, unless goods are stored under a field warehousing arrangement, in which case a statement of that fact is sufficient on a nonnegotiable receipt;

(f). A description of the goods or the packages containing them;

(g). The signature of the warehouse or its agent;

(h). If the receipt is issued for goods that the warehouse owns, either solely, jointly or in common with others, a statement of the fact of that ownership; and

(i). A statement of the amount of advances made and of liabilities incurred for which the warehouse claims a lien or security interest, unless the precise amount of advances made or liabilities incurred, at the time of the issue of the receipt, is unknown to the warehouse or to its agent that issued the receipt, in which case a statement of the fact that advances have been made or liabilities incurred and the purpose of the advances or liabilities is sufficient.

(3). A warehouse may insert in its receipt any terms that are not contrary to this Title and do not impair its obligation of delivery under section 7-1403 or its duty of care under section 7-1204. Any contrary provision is ineffective.

§7-1203. Liability for nonreceipt or misdescription

A party to or purchaser for value in good faith of a document of title, other than a bill of lading, that relies upon the description of the goods in the document may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

(1). The document conspicuously indicates that the issuer does not know whether all or part of the goods in fact were received or conform to the description, such as a case in which the description is in terms of marks or labels or kind, quantity or condition, or the receipt or description is qualified by "contents, condition and quality unknown," "said to contain" or words of similar import, if the indication is true; or

(2). The party or purchaser otherwise has notice of the nonreceipt or misdescription.

§7-1204. Duty of care; contractual limitation of warehouse's liability

(1). A warehouse is liable for damages for loss of or injury to the goods caused by its failure to exercise

care with regard to the goods that a reasonably careful person would exercise under similar circumstances. Unless otherwise agreed, the warehouse is not liable for damages that could not have been avoided by the exercise of that care.

(2). Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage beyond which the warehouse is not liable. Such a limitation is not effective with respect to the warehouse's liability for conversion to its own use. On request of the bailor in a record at the time of signing the storage agreement or within a reasonable time after receipt of the warehouse receipt, the warehouse's liability may be increased on part or all of the goods covered by the storage agreement or the warehouse receipt. In this event, increased rates may be charged based on an increased valuation of the goods.

(3). Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the bailment may be included in the warehouse receipt or storage agreement.

§7-1205. Title under warehouse receipt defeated in certain cases

A buyer in ordinary course of business of fungible goods sold and delivered by a warehouse that is also in the business of buying and selling such goods takes the goods free of any claim under a warehouse receipt even if the receipt is negotiable and has been duly negotiated.

§7-1206. Termination of storage at warehouse's option

(1). A warehouse, by giving notice to the person on whose account the goods are held and any other person known to claim an interest in the goods, may require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document of title or, if a period is not fixed, within a stated period not less than 30 days after the warehouse gives notice. If the goods are not removed before the date specified in the notice, the warehouse may sell them pursuant to section 7-1210.

(2). If a warehouse in good faith believes that goods are about to deteriorate or decline in value to less than the amount of its lien within the time provided in subsection (1) and section 7-1210, the warehouse may specify in the notice given under subsection (1) any reasonable shorter time for removal of the goods and, if the goods are not removed, may sell them at public sale held not less than one week after a single advertisement or posting.

(3). If, as a result of a quality or condition of the goods of which the warehouse did not have notice at the time of deposit, the goods are a hazard to other

property, the warehouse facilities or other persons, the warehouse may sell the goods at public or private sale without advertisement or posting on reasonable notification to all persons known to claim an interest in the goods. If the warehouse, after a reasonable effort, is unable to sell the goods, it may dispose of them in any lawful manner and does not incur liability by reason of that disposition.

(4). A warehouse shall deliver the goods to any person entitled to them under this Article upon due demand made at any time before sale or other disposition under this section.

(5). A warehouse may satisfy its lien from the proceeds of any sale or disposition under this section but shall hold the balance for delivery on the demand of any person to which the warehouse would have been bound to deliver the goods.

§7-1207. Goods must be kept separate; fungible goods

(1). Unless the warehouse receipt provides otherwise, a warehouse shall keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods. However, different lots of fungible goods may be commingled.

(2). If different lots of fungible goods are commingled, the goods are owned in common by the persons entitled thereto and the warehouse is severally liable to each owner for that owner's share. If, because of overissue, a mass of fungible goods is insufficient to meet all the receipts the warehouse has issued against it, the persons entitled include all holders to which overissued receipts have been duly negotiated.

§7-1208. Altered warehouse receipts

If a blank in a negotiable tangible warehouse receipt has been filled in without authority, a good faith purchaser for value and without notice of the lack of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any tangible or electronic warehouse receipt enforceable against the issuer according to its original tenor.

§7-1209. Lien of warehouse

(1). A warehouse has a lien against the bailor on the goods covered by a warehouse receipt or storage agreement or on the proceeds thereof in its possession for charges for storage or transportation, including demurrage and terminal charges, insurance, labor or other charges, present or future, in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for similar charges or expenses in relation to other goods whenever deposited and it is stated in the warehouse receipt or storage agreement that a lien is claimed for charges and expenses in relation to other goods, the warehouse also has a lien against the

goods covered by the warehouse receipt or storage agreement or on the proceeds thereof in its possession for those charges and expenses, whether or not the other goods have been delivered by the warehouse. However, as against a person to which a negotiable warehouse receipt is duly negotiated, a warehouse's lien is limited to charges in an amount or at a rate specified in the warehouse receipt or, if no charges are so specified, to a reasonable charge for storage of the specific goods covered by the receipt subsequent to the date of the receipt.

(2). A warehouse may also reserve a security interest against the bailor for the maximum amount specified on the receipt for charges other than those specified in subsection (1), such as for money advanced and interest. The security interest is governed by Article 9-A.

(3). A warehouse's lien for charges and expenses under subsection (1) or a security interest under subsection (2) is also effective against any person that so entrusted the bailor with possession of the goods that a pledge of them by the bailor to a good faith purchaser for value would have been valid. However, the lien or security interest is not effective against a person that before issuance of a document of title had a legal interest or a perfected security interest in the goods and that did not:

(a). Deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:

(i) Actual or apparent authority to ship, store or sell;

(ii) Power to obtain delivery under section 7-1403; or

(iii) Power of disposition under section 2-403; section 2-1304, subsection (2); section 2-1305, subsection (2); section 9-1320; or section 9-1321, subsection (3) or other statute or rule of law; or

(b). Acquiesce in the procurement by the bailor or its nominee of any document.

(4). A warehouse's lien on household goods for charges and expenses in relation to the goods under subsection (1) is also effective against all persons if the depositor was the legal possessor of the goods at the time of deposit. In this subsection, "household goods" means furniture, furnishings or personal effects used by the depositor in a dwelling.

(5). A warehouse loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

§7-1210. Enforcement of warehouse's lien

(1). Except as otherwise provided in subsection (2), a warehouse's lien may be enforced by public or

private sale of the goods, in bulk or in packages, at any time or place and on any terms that are commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the warehouse is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The warehouse sells in a commercially reasonable manner if the warehouse sells the goods in the usual manner in any recognized market therefor, sells at the price current in that market at the time of the sale or otherwise sells in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(2). A warehouse may enforce its lien on goods, other than goods stored by a merchant in the course of its business, only if the following requirements are satisfied:

(a). All persons known to claim an interest in the goods must be notified;

(b). The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than 10 days after receipt of the notification and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place;

(c). The sale must conform to the terms of the notification;

(d). The sale must be held at the nearest suitable place to where the goods are held or stored; and

(e). After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for 2 weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account the goods are being held and the time and place of the sale. The sale must take place at least 15 days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least 10 days before the sale in not fewer than 6 conspicuous places in the neighborhood of the proposed sale.

(3). Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable

expenses incurred in complying with this section. In that event, the goods may not be sold but must be retained by the warehouse subject to the terms of the receipt and this Article.

(4). A warehouse may buy at any public sale held pursuant to this section.

(5). A purchaser in good faith of goods sold to enforce a warehouse's lien takes the goods free of any rights of persons against which the lien was valid, despite the warehouse's noncompliance with this section.

(6). A warehouse may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to which the warehouse would have been bound to deliver the goods.

(7). The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(8). If a lien is on goods stored by a merchant in the course of its business, the lien may be enforced in accordance with subsection (1) or (2).

(9). A warehouse is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

PART 3

BILLS OF LADING: SPECIAL PROVISIONS

§7-1301. Liability for nonreceipt or misdescription; "said to contain;" "shipper's weight, load, and count;" improper handling

(1). A consignee of a nonnegotiable bill of lading that has given value in good faith, or a holder to which a negotiable bill has been duly negotiated, relying upon the description of the goods in the bill or upon the date shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the bill indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, such as in a case in which the description is in terms of marks or labels or kind, quantity or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown," "said to contain," "shipper's weight, load and count" or words of similar import, if that indication is true.

(2). If goods are loaded by the issuer of a bill of lading:

(a). The issuer shall count the packages of goods if shipped in packages and ascertain the kind and quantity if shipped in bulk; and

(b). Words such as "shipper's weight, load and count" or words of similar import indicating that

the description was made by the shipper are ineffective except as to goods concealed in packages.

(3). If bulk goods are loaded by a shipper that makes available to the issuer of a bill of lading adequate facilities for weighing those goods, the issuer shall ascertain the kind and quantity within a reasonable time after receiving the shipper's request in a record to do so. In that case, "shipper's weight" or words of similar import are ineffective.

(4). The issuer of a bill of lading, by including in the bill the words "shipper's weight, load and count" or words of similar import, may indicate that the goods were loaded by the shipper, and, if that statement is true, the issuer is not liable for damages caused by the improper loading. However, omission of such words does not imply liability for damages caused by improper loading.

(5). A shipper guarantees to an issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition and weight, as furnished by the shipper, and the shipper shall indemnify the issuer against damage caused by inaccuracies in those particulars. This right of indemnity does not limit the issuer's responsibility or liability under the contract of carriage to any person other than the shipper.

§7-1302. Through bills of lading and similar documents of title

(1). The issuer of a through bill of lading, or other document of title embodying an undertaking to be performed in part by a person acting as its agent or by a performing carrier, is liable to any person entitled to recover on the bill or other document for any breach by the other person or the performing carrier of its obligation under the bill or other document. However, to the extent that the bill or other document covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability for breach by the other person or the performing carrier may be varied by agreement of the parties.

(2). If goods covered by a through bill of lading or other document of title embodying an undertaking to be performed in part by a person other than the issuer are received by that person, the person is subject, with respect to its own performance while the goods are in its possession, to the obligation of the issuer. The person's obligation is discharged by delivery of the goods to another person pursuant to the bill or other document and does not include liability for breach by any other person or by the issuer.

(3). The issuer of a through bill of lading or other document of title described in subsection (1) is entitled to recover from the performing carrier, or other person

in possession of the goods when the breach of the obligation under the bill or other document occurred:

- (a). The amount it may be required to pay to any person entitled to recover on the bill or other document for the breach, as may be evidenced by any receipt, judgment or transcript of judgment; and
- (b). The amount of any expense reasonably incurred by the issuer in defending any action commenced by any person entitled to recover on the bill or other document for the breach.

§7-1303. Diversion; reconsignment; change of instructions

(1). Unless the bill of lading otherwise provides, a carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, without liability for misdelivery, on instructions from:

- (a). The holder of a negotiable bill;
- (b). The consignor on a nonnegotiable bill, even if the consignee has given contrary instructions;
- (c). The consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the tangible bill or in control of the electronic bill; or
- (d). The consignee on a nonnegotiable bill, if the consignee is entitled as against the consignor to dispose of the goods.

(2). Unless instructions described in subsection (1) are included in a negotiable bill of lading, a person to which the bill is duly negotiated may hold the bailee according to the original terms.

§7-1304. Tangible bills of lading in a set

(1). Except as customary in international transportation, a tangible bill of lading may not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

(2). If a tangible bill of lading is lawfully issued in a set of parts, each of which contains an identification code and is expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitutes one bill.

(3). If a tangible negotiable bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to which the first due negotiation is made prevails as to both the document of title and the goods even if any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by surrendering its part.

(4). A person that negotiates or transfers a single part of a tangible bill of lading issued in a set is liable to holders of that part as if it were the whole set.

(5). The bailee shall deliver in accordance with Part 4 against the first presented part of a tangible bill of lading lawfully issued in a set. Delivery in this manner discharges the bailee's obligation on the whole bill.

§7-1305. Destination bills

(1). Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier, at the request of the consignor, may procure the bill to be issued at destination or at any other place designated in the request.

(2). Upon request of any person entitled as against a carrier to control the goods while in transit and on surrender of possession or control of any outstanding bill of lading or other receipt covering the goods, the issuer, subject to section 7-1105, may procure a substitute bill to be issued at any place designated in the request.

§7-1306. Altered bills of lading

An unauthorized alteration or filling in of a blank in a bill of lading leaves the bill enforceable according to its original tenor.

§7-1307. Lien of carrier

(1). A carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges after the date of the carrier's receipt of the goods for storage or transportation, including demurrage and terminal charges, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. However, against a purchaser for value of a negotiable bill of lading, a carrier's lien is limited to charges stated in the bill or the applicable tariffs or, if no charges are stated, a reasonable charge.

(2). A lien for charges and expenses under subsection (1) on goods that the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to those charges and expenses. Any other lien under subsection (1) is effective against the consignor and any person that permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked authority.

(3). A carrier loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

§7-1308. Enforcement of carrier's lien

(1). A carrier's lien on goods may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are

commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The carrier sells goods in a commercially reasonable manner if the carrier sells the goods in the usual manner in any recognized market therefor, sells at the price current in that market at the time of the sale or otherwise sells in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(2). Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying with this section. In that event, the goods may not be sold but must be retained by the carrier, subject to the terms of the bill of lading and this Article.

(3). A carrier may buy at any public sale pursuant to this section.

(4). A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against which the lien was valid, despite the carrier's noncompliance with this section.

(5). A carrier may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to which the carrier would have been bound to deliver the goods.

(6). The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(7). A carrier's lien may be enforced pursuant to either subsection (1) or the procedure set forth in section 7-1210, subsection (2).

(8). A carrier is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

§7-1309. Duty of care; contractual limitation of carrier's liability

(1). A carrier that issues a bill of lading, whether negotiable or nonnegotiable, shall exercise the degree of care in relation to the goods that a reasonably careful person would exercise under similar circumstances. This subsection does not affect any statute, regulation

or rule of law that imposes liability upon a common carrier for damages not caused by its negligence.

(2). Damages may be limited by a term in the bill of lading or in a transportation agreement that the carrier's liability may not exceed a value stated in the bill or transportation agreement if the carrier's rates are dependent upon value and the consignor is afforded an opportunity to declare a higher value and the consignor is advised of the opportunity. However, such a limitation is not effective with respect to the carrier's liability for conversion to its own use.

(3). Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the shipment may be included in a bill of lading or a transportation agreement.

PART 4

WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL OBLIGATIONS

§7-1401. Irregularities in issue of receipt or bill or conduct of issuer

The obligations imposed by this Article on an issuer apply to a document of title even if:

(1). The document does not comply with the requirements of this Article or of any other statute, rule or regulation regarding its issuance, form or content;

(2). The issuer violated laws regulating the conduct of its business;

(3). The goods covered by the document were owned by the bailee when the document was issued; or

(4). The person issuing the document is not a warehouse but the document purports to be a warehouse receipt.

§7-1402. Duplicate document of title; overissue

A duplicate or any other document of title purporting to cover goods already represented by an outstanding document of the same issuer does not confer any right in the goods, except as provided in the case of tangible bills of lading in a set of parts, overissue of documents for fungible goods, substitutes for lost, stolen or destroyed documents or substitute documents issued pursuant to section 7-1105. The issuer is liable for damages caused by its overissue or failure to identify a duplicate document by a conspicuous notation.

§7-1403. Obligation of bailee to deliver; excuse

(1). A bailee shall deliver the goods to a person entitled under a document of title if the person complies with subsections (2) and (3), unless and to the extent that the bailee establishes any of the following:

(a). Delivery of the goods to a person whose receipt was rightful as against the claimant;

(b). Damage to or delay, loss or destruction of the goods for which the bailee is not liable;

(c). Previous sale or other disposition of the goods in lawful enforcement of a lien or on a warehouse's lawful termination of storage;

(d). The exercise by a seller of its right to stop delivery pursuant to section 2-705 or by a lessor of its right to stop delivery pursuant to section 2-1526;

(e). A diversion, reconsignment or other disposition pursuant to section 7-1303;

(f). Release, satisfaction or any other personal defense against the claimant; or

(g). Any other lawful excuse.

(2). A person claiming goods covered by a document of title shall satisfy the bailee's lien if the bailee so requests or if the bailee is prohibited by law from delivering the goods until the charges are paid.

(3). Unless a person claiming the goods is a person against which the document of title does not confer a right under section 7-1503, subsection (1):

(a). The person claiming under a document shall surrender possession or control of any outstanding negotiable document covering the goods for cancellation or indication of partial deliveries; and

(b). The bailee shall cancel the document or conspicuously indicate in the document the partial delivery or the bailee is liable to any person to which the document is duly negotiated.

§7-1404. No liability for good faith delivery pursuant to document of title

A bailee that in good faith has received goods and delivered or otherwise disposed of the goods according to the terms of a document of title or pursuant to this Article is not liable for the goods even if:

(1). The person from which the bailee received the goods did not have authority to procure the document or to dispose of the goods; or

(2). The person to which the bailee delivered the goods did not have authority to receive the goods.

PART 5

WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND TRANSFER

§7-1501. Form of negotiation and requirements of due negotiation

(1). The following rules apply to a negotiable tangible document of title.

(a). If the document's original terms run to the order of a named person, the document is negotiated

by the named person's indorsement and delivery. After the named person's indorsement in blank or to bearer, any person may negotiate the document by delivery alone.

(b). If the document's original terms run to bearer, it is negotiated by delivery alone.

(c). If the document's original terms run to the order of a named person and it is delivered to the named person, the effect is the same as if the document had been negotiated.

(d). Negotiation of the document after it has been indorsed to a named person requires indorsement by the named person and delivery.

(e). A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a monetary obligation.

(2). The following rules apply to a negotiable electronic document of title.

(a). If the document's original terms run to the order of a named person or to bearer, the document is negotiated by delivery of the document to another person. Indorsement by the named person is not required to negotiate the document.

(b). If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.

(c). A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.

(3). Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.

(4). The naming in a negotiable bill of lading of a person to be notified of the arrival of the goods does not limit the negotiability of the bill or constitute notice to a purchaser of the bill of any interest of that person in the goods.

§7-1502. Rights acquired by due negotiation

(1). Subject to sections 7-1205 and 7-1503, a holder to which a negotiable document of title has been duly negotiated acquires thereby:

- (a). Title to the document;
- (b). Title to the goods;
- (c). All rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and
- (d). The direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by the issuer except those arising under the terms of the document or under this Article, but in the case of a delivery order, the bailee's obligation accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2). Subject to section 7-1503, title and rights acquired by due negotiation are not defeated by any stoppage of the goods represented by the document of title or by surrender of the goods by the bailee and are not impaired even if:

- (a). The due negotiation or any prior due negotiation constituted a breach of duty;
- (b). Any person has been deprived of possession of a negotiable tangible document or control of a negotiable electronic document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion; or
- (c). A previous sale or other transfer of the goods or document has been made to a 3rd person.

§7-1503. Document of title to goods defeated in certain cases

(1). A document of title confers no right in goods against a person that before issuance of the document had a legal interest or a perfected security interest in the goods and that did not:

- (a). Deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:
 - (i) Actual or apparent authority to ship, store or sell;
 - (ii) Power to obtain delivery under section 7-1403; or
 - (iii) Power of disposition under section 2-403; section 2-1304, subsection (2); section 2-1305, subsection (2); section 9-1320; or section 9-1321, subsection (3) or other statute or rule of law; or

(b). Acquiesce in the procurement by the bailor or its nominee of any document.

(2). Title to goods based upon an unaccepted delivery order is subject to the rights of any person to which a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. That title may be defeated under section 7-1504 to the same extent as the rights of the issuer or a transferee from the issuer.

(3). Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of any person to which a bill issued by the freight forwarder is duly negotiated. However, delivery by the carrier in accordance with Part 4 pursuant to its own bill of lading discharges the carrier's obligation to deliver.

§7-1504. Rights acquired in absence of due negotiation; effect of diversion; stoppage of delivery

(1). A transferee of a document of title, whether negotiable or nonnegotiable, to which the document has been delivered but not duly negotiated, acquires the title and rights that its transferor had or had actual authority to convey.

(2). In the case of a transfer of a nonnegotiable document of title, until but not after the bailee receives notice of the transfer, the rights of the transferee may be defeated:

- (a). By those creditors of the transferor that could treat the transfer as void under section 2-402 or 2-1308;
- (b). By a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of the buyer's rights;
- (c). By a lessee from the transferor in ordinary course of business if the bailee has delivered the goods to the lessee or received notification of the lessee's rights; or
- (d). As against the bailee, by good faith dealings of the bailee with the transferor.

(3). A diversion or other change of shipping instructions by the consignor in a nonnegotiable bill of lading that causes the bailee not to deliver the goods to the consignee defeats the consignee's title to the goods if the goods have been delivered to a buyer in ordinary course of business or a lessee in ordinary course of business and, in any event, defeats the consignee's rights against the bailee.

(4). Delivery of the goods pursuant to a nonnegotiable document of title may be stopped by a seller under section 2-705 or a lessor under section 2-1526, subject to the requirements of due notification in those sections. A bailee that honors the seller's or lessor's

instructions is entitled to be indemnified by the seller or lessor against any resulting loss or expense.

§7-1505. Indorser not guarantor for other parties

The indorsement of a tangible document of title issued by a bailee does not make the indorser liable for any default by the bailee or previous indorsers.

§7-1506. Delivery without indorsement; right to compel indorsement

The transferee of a negotiable tangible document of title has a specifically enforceable right to have its transferor supply any necessary indorsement, but the transfer becomes a negotiation only as of the time the indorsement is supplied.

§7-1507. Warranties on negotiation or delivery of document of title

If a person negotiates or delivers a document of title for value, otherwise than as a mere intermediary under section 7-1508, unless otherwise agreed, the transferor, in addition to any warranty made in selling or leasing the goods, warrants to its immediate purchaser only that:

- (1). The document is genuine;
- (2). The transferor does not have knowledge of any fact that would impair the document's validity or worth; and
- (3). The negotiation or delivery is rightful and fully effective with respect to the title to the document and the goods it represents.

§7-1508. Warranties of collecting bank as to documents of title

A collecting bank or other intermediary known to be entrusted with documents of title on behalf of another or with collection of a draft or other claim against delivery of documents warrants by the delivery of the documents only its own good faith and authority even if the collecting bank or other intermediary has purchased or made advances against the claim or draft to be collected.

§7-1509. Adequate compliance with commercial contract

Whether a document of title is adequate to fulfill the obligations of a contract for sale, a contract for lease or the conditions of a letter of credit is determined by Article 2, 2-A or 5.

PART 6

WAREHOUSE RECEIPTS AND BILLS OF LADING: MISCELLANEOUS PROVISIONS

§7-1601. Lost, stolen or destroyed documents of title

(1). If a document of title is lost, stolen or destroyed, a court may order delivery of the goods or

issuance of a substitute document and the bailee may without liability to any person comply with the order. If the document was negotiable, a court may not order delivery of the goods or issuance of a substitute document without the claimant's posting security unless it finds that any person that may suffer loss as a result of nonsurrender of possession or control of the document is adequately protected against the loss. If the document was nonnegotiable, the court may require security. The court may also order payment of the bailee's reasonable costs and attorney's fees in any action under this subsection.

(2). A bailee that, without a court order, delivers goods to a person claiming under a missing negotiable document of title is liable to any person injured thereby. If the delivery is not in good faith, the bailee is liable for conversion. Delivery in good faith is not conversion if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery that files a notice of claim within one year after the delivery.

§7-1602. Judicial process against goods covered by negotiable document of title

Unless a document of title was originally issued upon delivery of the goods by a person that did not have power to dispose of them, a lien does not attach by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless possession or control of the document is first surrendered to the bailee or the document's negotiation is enjoined. The bailee may not be compelled to deliver the goods pursuant to process until possession or control of the document is surrendered to the bailee or to the court. A purchaser of the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

§7-1603. Conflicting claims; interpleader

If more than one person claims title to or possession of the goods, the bailee is excused from delivery until the bailee has a reasonable time to ascertain the validity of the adverse claims or to commence an action for interpleader. The bailee may assert an interpleader either in defending an action for nondelivery of the goods or by original action.

PART 7

MISCELLANEOUS PROVISIONS

§7-1701. Effective date

This Article takes effect February 15, 2010.

§7-1702. Applicability

This Article applies to a document of title that is issued or a bailment that arises on or after the effective date of this Article. This Article does not apply to a

document of title that is issued or a bailment that arises before the effective date of this Article even if the document of title or bailment would be subject to this Article if the document of title had been issued or bailment had arisen on or after the effective date of this Article. This Article does not apply to a right of action that has accrued before the effective date of this Article.

§7-1703. Savings clause

A document of title issued or a bailment that arises before February 15, 2010 and the rights, obligations and interests flowing from that document or bailment are governed by any statute or other rule amended or repealed by this Act as if amendment or repeal had not occurred and may be terminated, completed, consummated or enforced under that statute or other rule.

Sec. A-3. Legislative intent. This Act is the Maine enactment of the Uniform Commercial Code, Article 7 as revised by the National Conference of Commissioners on Uniform State Laws. The text of the uniform act has been changed to conform to Maine statutory conventions, and the article is enacted as Article 7-A. The changes are technical in nature and it is the intent of the Legislature that this Act be interpreted as substantively the same as the revised Article 7 of the uniform act.

Sec. A-4. Effective date. This Part takes effect February 15, 2010.

PART B

Sec. B-1. 10 MRSA §9416, sub-§1, ¶A, as enacted by PL 1999, c. 762, §2, is amended to read:

A. Would be a note under Title 11, Article 3-A or a document under Title 11, Article ~~7~~ 7-A if the electronic record were in writing; and

Sec. B-2. 10 MRSA §9416, sub-§4, as enacted by PL 1999, c. 762, §2, is amended to read:

4. Holders. Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in Title 11, section 1-201, subsection (20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under Title 11, section 3-1302, subsection (1); Title 11, section ~~7-501~~ 7-1501; or Title 11, section 9-308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated or a purchaser, respectively. Delivery, possession and indorsement are not required to obtain or exercise any of the rights under this subsection.

Sec. B-3. 11 MRSA §2-103, sub-§(3), as amended by PL 1999, c. 699, Pt. B, §5 and affected by §28, is further amended to read:

(3). The following definitions in other Articles apply to this Article:

"Check."	Section 3-104.
"Consignee."	Section 7-102 <u>7-1102</u> .
"Consignor."	Section 7-102 <u>7-1102</u> .
"Consumer goods."	Section 9-1102.
"Dishonor."	Section 3-1502.
"Draft."	Section 3-104.

Sec. B-4. 11 MRSA §2-103, sub-§(3-A) is enacted to read:

(3-A). "Control" as provided in section 7-1106 and the following definitions in other Articles apply to this Article:

"Check."	Section 3-104.
"Consignee."	Section <u>7-1102</u> .
"Consignor."	Section <u>7-1102</u> .
"Consumer goods."	Section 9-1102.
"Dishonor."	Section 3-502.
"Draft."	Section <u>3-104</u> .

Sec. B-5. 11 MRSA §2-104, sub-§(2) is amended to read:

(2). Financing agency. "Financing agency" means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller's draft or making advances against it or by merely taking it for collection whether or not documents of title accompany or are associated with the draft. "Financing agency" includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (section 2-707).

Sec. B-6. 11 MRSA §2-310, sub-§(3) is repealed and the following enacted in its place:

(3). If delivery is authorized and made by way of documents of title otherwise than by subsection (2), then payment is due regardless of where the goods are to be received:

- (a). At the time and place at which the buyer is to receive delivery of the tangible documents; or
- (b). At the time the buyer is to receive delivery of the electronic documents and at the seller's place of business or if none the seller's residence; and

Sec. B-7. 11 MRSA §2-323, sub-§(2) is amended to read:

(2). Where in a case within subsection (1) a tangible bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set

(a). Due tender of a single part is acceptable within the provisions of this Article on cure of improper delivery (section 2-508, subsection (1)); and

(b). Even though the full set is demanded, if the documents are sent from abroad the person tendering an incomplete set may nevertheless require payments upon furnishing an indemnity which the buyer in good faith deems adequate.

Sec. B-8. 11 MRSA §2-401, sub-§(3) is amended to read:

(3). Unless otherwise explicitly agreed where delivery is to be made without moving the goods

(a). If the seller is to deliver a tangible document of title, title passes at the time when and the place where ~~he~~ the seller delivers such documents and if the seller is to deliver an electronic document of title, title passes when the seller delivers the document; or

(b). If the goods are at the time of contracting already identified and no documents of title are to be delivered, title passes at the time and place of contracting.

Sec. B-9. 11 MRSA §2-403, sub-§(4), as amended by PL 1991, c. 636, §2, is further amended to read:

(4). The rights of other purchasers of goods and of lien creditors are governed by the Articles on secured transactions (Article 9 9-A) and documents of title (Article 7 7-A).

Sec. B-10. 11 MRSA §2-503, sub-§(4), ¶(b) is amended to read:

(b). Tender to the buyer of a nonnegotiable document of title or of a ~~written direction to record directing~~ the bailee to deliver is sufficient tender unless the buyer seasonably objects, and except as otherwise provided in Article 9-A receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the nonnegotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

Sec. B-11. 11 MRSA §2-503, sub-§(5) is amended to read:

(5). Where the contract requires the seller to deliver documents,

(a). ~~He~~ The seller must tender all such documents in correct form, except as provided in this Article with respect to bills of lading in a set (section 2-323, subsection (2)); and

(b). Tender through customary banking channels is sufficient and dishonor of a draft accompanying or associated with the documents constitutes nonacceptance or rejection.

Sec. B-12. 11 MRSA §2-505, sub-§(1), ¶(b) is amended to read:

(b). A nonnegotiable bill of lading to ~~himself~~ the seller or ~~his~~ the seller's nominee reserves possession of the goods as security, but except in a case of conditional delivery under section 2-507, subsection (2) a nonnegotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession or control of the bill of lading.

Sec. B-13. 11 MRSA §2-505, sub-§(2) is amended to read:

(2). When shipment by the seller with reservation of a security interest is in violation of the contract for sale, it constitutes an improper contract for transportation within section 2-504 but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document of title.

Sec. B-14. 11 MRSA §2-506, sub-§(2) is amended to read:

(2). The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular ~~on its face~~.

Sec. B-15. 11 MRSA §2-509, sub-§(2), ¶(a) is amended to read:

(a). On ~~his~~ the buyer's receipt of possession or control of a negotiable document of title covering the goods; or

Sec. B-16. 11 MRSA §2-509, sub-§(2), ¶(c) is amended to read:

(c). After ~~his~~ the buyer's receipt of possession or control of a nonnegotiable document of title or other ~~written~~ direction to deliver in a record, as provided in section 2-503, subsection (4), paragraph (b).

Sec. B-17. 11 MRSA §2-605, sub-§(2) is amended to read:

(2). Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent ~~on the face of~~ in the documents.

Sec. B-18. 11 MRSA §2-705, sub-§(3), ¶(c) is amended to read:

(c). If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of possession or control of the document.

Sec. B-19. 11 MRSA §2-1103, sub-§(1), ¶(a), as enacted by PL 1991, c. 805, §4, is amended to read:

(a). "Buyer in ordinary course of business" means a person who, in good faith and without knowledge that the sale to that person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. Buying may be for cash or by exchange of other property or on secured or unsecured credit and includes ~~receiving~~ acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

Sec. B-20. 11 MRSA §2-1103, sub-§(1), ¶(o), as enacted by PL 1991, c. 805, §4, is amended to read:

(o). "Lessee in ordinary course of business" means a person who, in good faith and without knowledge that the lease to that person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes ~~receiving~~ acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

Sec. B-21. 11 MRSA §2-1514, sub-§(2), as enacted by PL 1991, c. 805, §4, is amended to read:

(2). A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent ~~on the face of~~ in the documents.

Sec. B-22. 11 MRSA §2-1526, sub-§(2), ¶(c), as enacted by PL 1991, c. 805, §4, is amended to read:

(c). Such an acknowledgment to the lessee by a carrier via reshipment or as a warehouse ~~operator~~.

Sec. B-23. 11 MRSA §4-104, sub-§(3), as amended by PL 2003, c. 594, §9, is further amended to read:

(3). ~~The~~ "Control" as provided in section 7-1106 and the following definitions in other Articles apply to this Article:

"Acceptance."	Section 3-1409.
"Alteration."	Section 3-1407.
"Cashier's check."	Section 3-1104.
"Certificate of deposit."	Section 3-1104.
"Certified Check."	Section 3-1409.
"Check."	Section 3-1104.
"Demand draft."	Section 3-1104.
"Draft."	Section 3-1104.
"Good faith."	Section 3-1103.
"Holder in due course."	Section 3-1102.
"Instrument."	Section 3-1104.
"Notice of dishonor."	Section 3-1503.
"Order."	Section 3-1103.
"Ordinary care."	Section 3-1103.
"Person entitled to enforce."	Section 3-1301.
"Presentment."	Section 3-1501.
"Promise."	Section 3-1103.
"Prove."	Section 3-1103.
"Teller's check."	Section 3-1104.
"Unauthorized signature."	Section 3-1403.

Sec. B-24. 11 MRSA §4-208, sub-§(3), as amended by PL 1999, c. 699, Pt. B, §17 and affected by §28, is further amended to read:

(3). Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or possession or control of the accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Article ~~9~~ 9-A, but:

(a). No security agreement is necessary to make the security interest enforceable (section 9-1203, subsection (2), paragraph (c), subparagraph (i)); ~~and~~

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

(c). The security interest has priority over conflicting perfected security interests in the item, accompanying documents or proceeds.

Sec. B-25. 11 MRSA §5-1110, sub-§(2), as enacted by PL 1997, c. 429, Pt. A, §2 and affected by §4, is amended to read:

(2). The warranties in subsection (1) are in addition to warranties arising under Articles 3-A, 4, ~~7~~ 7-A and 8-A because of the presentation or transfer of documents covered by any of those Articles.

Sec. B-26. 11 MRSA §8-1103, sub-§(7) is enacted to read:

(7). A document of title is not a financial asset unless section 8-1102, subsection (1), paragraph (i), subparagraph (iii) applies.

Sec. B-27. 11 MRSA §9-1102, sub-§(30), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(30). "Document" means a document of title or a receipt of the type described in section ~~7-204~~ 7-1201, subsection (2).

Sec. B-28. 11 MRSA §9-1102, sub-§(80), ¶(d), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(d). Transmitting or producing and transmitting electricity, steam, gas or water.

~~The~~ "Control" as provided in section 7-1106 and ~~the~~ following definitions in other Articles apply to this Article:

"Applicant"	Section 5-1102.
"Beneficiary"	Section 5-1102.
"Broker"	Section 8-1102.
"Certificated security"	Section 8-1102.
"Check"	Section 3-1104.
"Clearing corporation"	Section 8-1102.
"Contract for sale"	Section 2-106.
"Customer"	Section 4-104.
"Entitlement holder"	Section 8-1102.
"Financial asset"	Section 8-1102.
"Holder in due course"	Section 3-1302.
"Issuer" (with respect to a letter of credit or letter-of-credit right)	Section 5-1102.
"Issuer" (with respect to a security)	Section 8-1201.
"Issuer" (with respect to documents of title)	Section 7-1102.
"Lease"	Section 2-1103.
"Lease agreement"	Section 2-1103.

"Lease contract"	Section 2-1103.
"Leasehold interest"	Section 2-1103.
"Lessee in ordinary course of business"	Section 2-1103.
"Lessor"	Section 2-1103.
"Lessor's residual interest"	Section 2-1103.
"Letter of credit"	Section 5-1102.
"Merchant"	Section 2-104.
"Negotiable instrument"	Section 3-1104.
"Nominated person"	Section 5-1102.
"Note"	Section 3-1104.
"Proceeds of a letter of credit"	Section 5-114.
"Prove"	Section 3-1103.
"Sale"	Section 2-106.
"Securities account"	Section 8-1501.
"Securities intermediary"	Section 8-1102.
"Security"	Section 8-1102.
"Security certificate"	Section 8-1102.
"Security entitlement"	Section 8-1102.
"Uncertificated security"	Section 8-1102.

Sec. B-29. 11 MRSA §9-1203, sub-§(2), ¶(c), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(c). One of the following conditions is met:

(i) The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(ii) The collateral is not a certificated security and is in the possession of the secured party under section 9-1313 pursuant to the debtor's security agreement;

(iii) The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under section 8-1302 pursuant to the debtor's security agreement; or

(iv) The collateral is deposit accounts, electronic chattel paper, investment property, ~~or~~ letter-of-credit rights or electronic documents, and the secured party has control under sections 9-1104, 9-1105, 9-1106 or 9-1107 pursuant to the debtor's security agreement.

Sec. B-30. 11 MRSA §9-1207, sub-§(3), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(3). Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under section 7-1106, 9-1104, 9-1105, 9-1106 or 9-1107:

- (a). May hold as additional security any proceeds, except money or funds, received from the collateral;
- (b). Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and
- (c). May create a security interest in the collateral.

Sec. B-31. 11 MRSA §9-1208, sub-§(2), ¶(d), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(d). A secured party having control of investment property under section 8-1106, subsection (4), paragraph (b) or 9-1106, subsection (2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; ~~and~~

Sec. B-32. 11 MRSA §9-1208, sub-§(2), ¶(e), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(e). A secured party having control of a letter-of-credit right under section 9-1107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; ~~and~~

Sec. B-33. 11 MRSA §9-1208, sub-§(2), ¶(f) is enacted to read:

(f). A secured party having control of an electronic document shall:

(1) Give control of the electronic document to the debtor or its designated custodian;

(2) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(3) Take appropriate action to enable the debtor or its designated custodian to make

copies of or revisions to the authoritative copy that add or change an identified assignee of the authoritative copy without the consent of the secured party.

Sec. B-34. 11 MRSA §9-1301, sub-§(3), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(3). Except as otherwise provided in subsection (4), while tangible negotiable documents, goods, instruments, money or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

- (a). Perfection of a security interest in the goods by filing a fixture filing;
- (b). Perfection of a security interest in timber to be cut; and
- (c). The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

Sec. B-35. 11 MRSA §9-1310, sub-§(2), ¶(e), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(e). In certificated securities, documents, goods or instruments that is perfected without filing, control or possession under section 9-1312, subsection (5), (6) or (7);

Sec. B-36. 11 MRSA §9-1310, sub-§(2), ¶(h), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(h). In deposit accounts, electronic chattel paper, electronic documents, investment property or letter-of-credit rights that is perfected by control under section 9-1314;

Sec. B-37. 11 MRSA §9-1312, sub-§(5), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(5). A security interest in certificated securities, negotiable documents or instruments is perfected without filing or the taking of possession or control for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

Sec. B-38. 11 MRSA §9-1313, sub-§(1), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(1). Except as otherwise provided in subsection (2), a secured party may perfect a security interest in tangible negotiable documents, goods, instruments, money or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under section 8-1301.

Sec. B-39. 11 MRSA §9-1314, sub-§(1), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(1). A security interest in investment property, deposit accounts, letter-of-credit rights ~~or~~ electronic chattel paper or electronic documents may be perfected by control of the collateral under section ~~7-1106~~, 9-1104, 9-1105, 9-1106 or 9-1107.

Sec. B-40. 11 MRSA §9-1314, sub-§(2), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(2). A security interest in deposit accounts, electronic chattel paper, ~~or~~ letter-of-credit rights or electronic documents is perfected by control under section ~~7-1106~~, 9-1104, 9-1105 or 9-1107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

Sec. B-41. 11 MRSA §9-1317, sub-§(2), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(2). Except as otherwise provided in subsection (5), a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

Sec. B-42. 11 MRSA §9-1317, sub-§(4), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(4). A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, electronic documents, general intangibles or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

Sec. B-43. 11 MRSA §9-1338, sub-§(2), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(2). A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, tangible documents, goods, instruments or a security certificate, receives delivery of the collateral.

Sec. B-44. 11 MRSA §9-1601, sub-§(2), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(2). A secured party in possession of collateral or control of collateral under section 7-1106, 9-1104,

9-1105, 9-1106 or 9-1107 has the rights and duties provided in section 9-1207.

Sec. B-45. 17 MRSA §1663 is amended to read:

§1663. Issue of duplicate bills not so marked

Any officer, agent or servant of a carrier who, with intent to defraud, issues or aids in issuing a duplicate or additional negotiable bill for goods in violation of Title 11, section ~~7-402~~ 7-1402, knowing that a former negotiable bill for the same goods or any part of them is outstanding and uncanceled, ~~shall be~~ is guilty of a crime, and upon conviction ~~shall~~ must be punished for each offense by a fine of not more than \$5,000 or by imprisonment for not more than 5 years, or by both.

Sec. B-46. 17 MRSA §1703 is amended to read:

§1703. Issue of duplicate receipts not so marked

A ~~warehouseman~~ warehouse, or any officer's agent, or servant of a ~~warehouseman~~ warehouse, who issues or aids in issuing a duplicate or additional negotiable receipt for goods knowing that a former negotiable receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "Duplicate", except in the case of a lost or destroyed receipt after proceedings as provided for in Title 11, section ~~7-402~~ 7-1402, ~~shall be~~ is guilty of a crime, and upon conviction ~~shall~~ must be punished for each offense by a fine of not more than \$5,000 or by imprisonment for not more than 5 years, or by both.

Sec. B-47. 17 MRSA §1705 is amended to read:

§1705. Delivery of goods without obtaining negotiable receipt

A ~~warehouseman~~ warehouse, or any officer, agent or servant of a ~~warehouseman~~ warehouse who delivers goods out of the possession of such ~~warehouseman~~ warehouse, knowing that a negotiable receipt the negotiation of which would transfer the right to the possession of such goods is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, ~~shall~~, except in the cases provided for in Title 11, sections ~~7-402~~ 7-1402 and ~~7-403~~ 7-1403, ~~be found~~ is guilty of a crime, and upon conviction ~~shall~~ must be punished for each offense by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

Sec. B-48. Effective date. This Part takes effect February 15, 2010.

Effective February 15, 2010.