



Policy Council

**TUESDAY, MARCH 2, 2010
2:00 – 4:00 P.M.
MORRIS HALL**

MEETING PACKET

**Larry Cretul
Speaker**

**Rep. Marcelo Llorente
Chair**

Council Meeting Notice
HOUSE OF REPRESENTATIVES

Policy Council

Start Date and Time: Tuesday, March 02, 2010 02:00 pm
End Date and Time: Tuesday, March 02, 2010 04:00 pm
Location: Morris Hall (17 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

CS/HB 277 Alimony by Civil Justice & Courts Policy Committee, Frishe
HB 709 Reptiles by Williams, T.
HB 731 Uniform Commercial Code by Carroll

NOTICE FINALIZED on 02/26/2010 10:58 by Glatfelter.Sukie

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 277 Alimony
SPONSOR(S): Civil Justice & Courts Policy Committee; Frishe
TIED BILLS: None IDEN./SIM. BILLS: SB 1194

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Civil Justice & Courts Policy Committee, 10 Y, 0 N, As CS, DeZego, De La Paz. Row 2: Policy Council, Liepshutz, Ciccone.

SUMMARY ANALYSIS

Alimony is generally used to provide support to a financially dependent spouse. Section 61.08(2), F.S., provides factors that a court must consider in awarding alimony in a dissolution of marriage case.

There are three basic types of alimony: permanent periodic, rehabilitative, and bridge-the-gap. Florida statutes expressly provide for permanent and rehabilitative alimony, and Florida courts have consistently recognized bridge-the-gap alimony.

The court has the discretion to modify alimony, giving due regard to the changed circumstances or the financial ability of the parties. In addition, a court may reduce or terminate alimony upon specific written findings that a supportive relationship exists between the receiving spouse and another person.

Committee Substitute for House Bill 277 makes changes to s. 61.08, F.S., regarding alimony and provides statutory guidelines for when and what type of alimony may be used in dissolution of marriage cases. Specifically, this bill adds to the statute two more types of alimony that a court may award: bridge-the-gap alimony, which is currently recognized in Florida case law although not in statute, and durational alimony, which has never been recognized in Florida.

This bill provides that all alimony awards, except for rehabilitative alimony, end upon the death of either party or the remarriage of the receiving spouse. In addition, this bill provides specifics regarding when each type of alimony may be modified or terminated.

This bill appears to have an indeterminate minimal fiscal impact on court revenues and expenditures.

The bill's effective date is July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Alimony is generally used to provide support to a financially dependent spouse.¹ In Florida, the primary basis for determining alimony is whether there is need and ability to pay; alimony is not appropriate when the requesting spouse has no need for support or when the other spouse does not have the ability to pay.² Before a court can make an award of alimony, equitable distribution of the former spouse's assets must occur.³

Section 61.08(2), F.S., provides factors that a court must consider in awarding alimony in a dissolution of marriage case. These factors include:

- The standard of living established during the marriage;
- The duration of the marriage;
- The age, physical, and emotional condition of each party;
- The financial resources of each party, both marital and nonmarital, and the liabilities of each of them;
- If applicable, the time necessary for either party to acquire the education or training necessary for the party to find employment;
- Each party's contribution to the marriage, including, but not limited to, homemaking services, child care, education, and career building of the other party; and
- All sources of income available to either party.

In addition, the trial court is given broad discretion to consider any other factor necessary to do equity and justice between the parties.⁴ A court may also consider the adultery of either party and the circumstances surrounding that adultery in determining an award of alimony.⁵

There are three basic types of alimony: permanent periodic, rehabilitative, and bridge-the-gap. Florida statutes provide expressly for permanent and rehabilitative alimony,⁶ and Florida courts have

¹ Victoria Ho & Jennifer Johnson, *Overview of Florida Alimony Law*, 78-OCT Fla. B. J. 71, 71 (2004).

² *Id.*

³ *Id.*

⁴ Section 61.08(2), F.S.

⁵ Section 61.08(1), F.S.

⁶ *Id.*

recognized bridge-the-gap alimony in addition to these. The court may order periodic payments, lump sum payments or both for these types of alimony.

Section 61.14, F.S., provides that the court may modify an alimony award by increasing or decreasing the amount, giving due regard to the changed circumstances or the financial ability of the parties. In addition, the court "may reduce or terminate an award of alimony upon specific written findings by the court that since the granting of a divorce and the award of alimony a supportive relationship has existed between the obligee and a person with whom the obligee resides." Section 61.14(1)(b)2., F.S., provides a non-exclusive list of circumstances for the court to consider when determining whether to modify an existing award of alimony based on a supportive relationship.

Permanent Periodic Alimony

Permanent periodic alimony is usually awarded to meet the needs of a dependent spouse. In a long-term marriage, Florida courts have held that there is a presumption in favor of permanent alimony, regardless of the spouse's age or ability to earn income, although the district courts of Florida do not agree as to what constitutes a long-term marriage.⁷ Generally, a marriage of seventeen years or longer is considered long-term.⁸ A marriage which is neither short-term nor long-term falls in a middle "grey area," where there is neither a presumption for nor against permanent alimony.⁹ In a short-term marriage, courts have generally found that there is a presumption against alimony.¹⁰

There are three prerequisites found in Florida case law for modification of permanent alimony: a substantial change in circumstances; the circumstance was not contemplated at the time of the final judgment of dissolution; and the circumstance is sufficient, material, involuntary and permanent in nature.¹¹ Permanent periodic alimony generally terminates on the death of either spouse or the remarriage of either recipient spouse, unless the parties agree otherwise.

Rehabilitative Alimony

Rehabilitative alimony is used to establish self-support in the receiving spouse, either by redevelopment of previous skills, or by training necessary to develop new skills.¹² To receive an award of rehabilitative alimony, the party seeking support must provide the court with a rehabilitative plan including the purpose of the rehabilitation, the areas in which rehabilitation is needed, and the actual amount of money necessary for rehabilitation.¹³

A party seeking an extension of rehabilitative alimony must generally show that he or she has not been rehabilitated despite reasonable and diligent efforts.¹⁴ However, an unanticipated change in circumstances has also been held to support a continuation of rehabilitative alimony.¹⁵ Case law provides that rehabilitative alimony does not automatically terminate upon the remarriage of the recipient spouse; but, rather, the paying spouse must show a material and substantial change in circumstances.¹⁶

Bridge-the-gap Alimony

Bridge-the-gap Alimony refers to awards of non-permanent alimony provided to ease the transition from married life to being single. This type of alimony is intended not to retrain or rehabilitate divorcing

⁷ *Young v. Young*, 677 So. 2d 1301 (Fla. 5th DCA 1996).

⁸ *Cruz v. Cruz*, 574 So. 2d 1117 (Fla. 3d DCA 1990).

⁹ *Levy v. Levy*, 862 So. 2d 48 (Fla. 3d DCA 2003).

¹⁰ *Reeves v. Reeves*, 821 So. 2d 333 (Fla. 5th DCA 2002).

¹¹ *Eisemann v. Eisemann*, 5 So. 3d 760 (Fla. 2d DCA 2009); *Damiano v. Damiano*, 855 So. 2d 708 (Fla. 4th DCA 2003).

¹² *Holmes v. Holmes*, 579 So. 2d 769 (Fla. 2d DCA 1991).

¹³ *Id.*

¹⁴ *Wilson v. Wilson*, 585 So. 2d 1179 (Fla. 5th DCA 1991).

¹⁵ *Garramore v. Garramore*, 559 So. 2d 422 (Fla. 4th DCA 1990).

¹⁶ *Owens v. Owens*, 559 So. 2d 321 (Fla. 1st DCA 1990).

spouses,¹⁷ but rather, is intended only for short-term assistance with legitimate, identifiable short-term needs.¹⁸ Bridge-the-gap alimony typically lasts no longer than two years.¹⁹ This type of alimony is often payable as a lump sum in installments or as a single lump sum.

Although s. 61.14, F.S., provides that an alimony award may be modified giving due regard to a change in circumstances or financial ability, bridge-the-gap alimony is generally not subject to modification under current case law.

Effect of Bill

This bill makes changes to s. 61.08, F.S., regarding alimony and provides statutory guidelines for when and what type of alimony may be used in dissolution of marriage cases. Specifically, this bill provides that before a court may make an award of any type of alimony, the court must first make a specific factual determination as to whether there is an actual need for alimony by either party and whether either party has the ability to pay. If the court finds that a party has a need and the other party has the ability to pay alimony or maintenance, then the court must consider all relevant factors, including those listed in s. 61.08(2), F.S. This bill broadens the list of factors to consider from all relevant "economic" factors to all relevant factors.

In addition, this bill adds the following to the current list of factors a court must consider in determining an award for alimony:

- The earning capacities, education levels, vocational skills, and employability of the parties;
- The responsibilities each party will have with regard to any minor children they have in common;
- The tax treatment and consequences to both parties of an alimony award, including designation of all or a portion of the payment as nontaxable, nondeductible income; and
- Any income available to either party through investments of any asset held by that party.

This bill provides that in addition to permanent or rehabilitative alimony, a court may also provide bridge-the-gap alimony, which is currently recognized in Florida case law, or durational alimony, which has never been used in Florida, or any combination of these forms.

Permanent Alimony

This bill provides that permanent alimony may be awarded for the need and necessities of life as established during the marriage when a party lacks the financial ability to meet his or her needs and necessities of life. Permanent alimony may be awarded following a long-duration marriage, which is not defined within the statute but has typically been held as seventeen years or more; following a marriage of moderate duration, if it is appropriate based on the factors in s. 61.08(2), F.S.; or following a short-duration marriage if the circumstances are "exceptional."

An award of permanent alimony under this bill terminates upon the death of either party or the remarriage of the party receiving the award. An award may also be modified or terminated if there is a substantial change in circumstances or upon the existence of a supportive relationship as provided in s. 61.14, F.S., which is consistent with current law.

Rehabilitative Alimony

Rehabilitative alimony may be awarded under this bill to assist a party in "establishing the capacity for self-support" by either redeveloping previous skills or credentials or acquiring additional education, training, or work experience. This bill requires that there must be a specific and defined rehabilitative plan which must be included as part of the order for rehabilitative alimony. This provision is consistent with current case law.

¹⁷ *Green v. Green*, 672 So. 2d 49 (Fla. 4th DCA 1996).

¹⁸ *Borchard v. Borchard*, 730 So.2d 748, 753 (Fla. 2nd DCA 1999).

¹⁹ *Borchard v. Borchard*, 730 So.2d 748 (Fla. 2nd DCA 1999).

Rehabilitative alimony may be modified or terminated in accordance with s. 61.14, F.S.,²⁰ if there is a substantial change in circumstances, if the party does not comply with the plan, or when the plan is completed.

Bridge-the-gap Alimony

This bill adds bridge-the-gap alimony as a type of alimony a judge may award under s. 61.08, F.S. Under this bill, bridge-the-gap alimony may be awarded to a party in order to provide support by allowing the party to make a transition from being married to being single. It is intended to assist a party with their short-term needs and the length of an award may not exceed two years duration.

This bill provides that bridge-the-gap alimony terminates on the death of either party or the remarriage of the party receiving the award. An award of bridge-the-gap alimony is not modifiable in amount or duration under this bill.

Durational Alimony

This bill creates durational alimony, which has not been recognized in Florida statute or case law, and which may be provided when permanent periodic alimony is not appropriate. The purpose of durational alimony under this bill is to provide economic assistance for a set period of time following a short-duration or moderate-duration marriage. What constitutes short or moderate duration is not defined within the bill.

The award terminates upon the death of either party or the remarriage of the party receiving alimony and can be modified or terminated upon a substantial change of circumstances in accordance with s. 61.14, F.S. However, the length of durational alimony may not be modified under this bill, except under "exceptional circumstances."

This bill does not provide a specific length of time for durational alimony, so a court would have discretion to decide how long an award of durational alimony would last in each case. Durational alimony may provide recipient spouses, who would otherwise be denied alimony, an award of durational alimony.

B. SECTION DIRECTORY:

Section 1 amends s. 61.08, F.S., relating to alimony.

Section 2 provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill appears to have a minimal indeterminate positive fiscal impact on court revenues resulting from a potential increase in alimony case filings, according to the Office of the State Courts Administrator.

2. Expenditures:

²⁰ Section 61.14, F.S., provides in part that a court may modify an award of alimony giving due regard to the change in circumstances or financial ability. In addition, the statute provides that court may reduce or terminate alimony upon specific written findings that a supportive relationship exists between the receiving spouse and another person.

This bill appears to have a minimal indeterminate negative fiscal impact on court expenditures due to an increase in the judicial workload, according to the Office of the State Courts Administrator.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may provide an indeterminate positive fiscal impact to spouses who receive durational alimony who were previously not entitled to an award of alimony. This bill may also provide a corresponding negative fiscal impact to payor spouses.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require counties or cities to: spend funds or take action requiring the expenditure of funds; reduce the authority of counties or cities to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or cities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On January 21, 2010, the Civil Justice & Courts Policy Committee adopted one amendment to this bill. The amendment limited the length of an award of bridge-the-gap alimony to no more than two years duration.

The bill was then reported favorably. This analysis is drafted to the bill as amended.

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1 A bill to be entitled
 2 An act relating to alimony; amending s. 61.08, F.S.;
 3 allowing for award of more than one type of alimony;
 4 revising factors to be considered in whether to award
 5 alimony or maintenance; providing for award of bridge-the-
 6 gap alimony for a limited period; providing that such an
 7 award is not modifiable; providing for award of
 8 rehabilitative alimony in certain circumstances; providing
 9 for modification or termination of such an award;
 10 providing for award of durational alimony in certain
 11 circumstances; providing for modification or termination
 12 of such an award; providing for award of permanent alimony
 13 in certain circumstances; providing for modification or
 14 termination of such an award; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 61.08, Florida Statutes, is amended to
 19 read:

20 61.08 Alimony.—

21 (1) In a proceeding for dissolution of marriage, the court
 22 may grant alimony to either party, which alimony may be bridge-
 23 the-gap, rehabilitative, durational, or permanent in nature or
 24 any combination of these forms of alimony. In any award of
 25 alimony, the court may order periodic payments or payments in
 26 lump sum or both. The court may consider the adultery of either
 27 spouse and the circumstances thereof in determining the amount
 28 of alimony, if any, to be awarded. In all dissolution actions,

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29 | the court shall include findings of fact relative to the factors
 30 | enumerated in subsection (2) supporting an award or denial of
 31 | alimony.

32 | (2) In determining whether to ~~a proper~~ award of alimony or
 33 | maintenance, the court shall first make a specific factual
 34 | determination as to whether either party has an actual need for
 35 | alimony or maintenance and whether either party has the ability
 36 | to pay alimony or maintenance. If the court finds that a party
 37 | has a need for alimony or maintenance and that the other party
 38 | has the ability to pay alimony or maintenance, then in
 39 | determining the proper type and amount of alimony or
 40 | maintenance, the court shall consider all relevant ~~economic~~
 41 | factors, including, but not limited to:

42 | (a) The standard of living established during the
 43 | marriage.

44 | (b) The duration of the marriage.

45 | (c) The age and the physical and emotional condition of
 46 | each party.

47 | (d) The financial resources of each party, including the
 48 | nonmarital and the marital assets and liabilities distributed to
 49 | each.

50 | (e) The earning capacities, educational levels, vocational
 51 | skills, and employability of the parties and, when applicable,
 52 | the time necessary for either party to acquire sufficient
 53 | education or training to enable such party to find appropriate
 54 | employment.

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55 (f) The contribution of each party to the marriage,
56 including, but not limited to, services rendered in homemaking,
57 child care, education, and career building of the other party.

58 (g) The responsibilities each party will have with regard
59 to any minor children they have in common.

60 (h) The tax treatment and consequences to both parties of
61 any alimony award, including the designation of all or a portion
62 of the payment as a nontaxable, nondeductible payment.

63 (i) ~~(g)~~ All sources of income available to either party,
64 including income available to either party through investments
65 of any asset held by that party.

66
67 (j) ~~The court may consider~~ Any other factor necessary to
68 do equity and justice between the parties.

69 (3) To the extent necessary to protect an award of
70 alimony, the court may order any party who is ordered to pay
71 alimony to purchase or maintain a life insurance policy or a
72 bond, or to otherwise secure such alimony award with any other
73 assets which may be suitable for that purpose.

74 (4) Bridge-the-gap alimony may be awarded to assist a
75 party by providing support to allow the party to make a
76 transition from being married to being single. Bridge-the-gap
77 alimony is designed to assist a party with legitimate
78 identifiable short-term needs, and the length of an award may
79 not exceed 2 years. An award of bridge-the-gap alimony
80 terminates upon the death of either party or upon the remarriage
81 of the party receiving alimony. An award of bridge-the-gap
82 alimony shall not be modifiable in amount or duration.

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83 (5) (a) Rehabilitative alimony may be awarded to assist a
 84 party in establishing the capacity for self-support through
 85 either:

- 86 1. The redevelopment of previous skills or credentials; or
- 87 2. The acquisition of education, training, or work
 88 experience necessary to develop appropriate employment skills or
 89 credentials.

90 (b) In order to award rehabilitative alimony, there must
 91 be a specific and defined rehabilitative plan which shall be
 92 included as a part of any order awarding rehabilitative alimony.

93 (c) An award of rehabilitative alimony may be modified or
 94 terminated in accordance with s. 61.14 based upon a substantial
 95 change in circumstances, upon noncompliance with the
 96 rehabilitative plan, or upon completion of the rehabilitative
 97 plan.

98 (6) Durational alimony may be awarded when permanent
 99 periodic alimony is inappropriate. The purpose of durational
 100 alimony is to provide a party with economic assistance for a set
 101 period of time following a marriage of short or moderate
 102 duration. An award of durational alimony terminates upon the
 103 death of either party or upon the remarriage of the party
 104 receiving alimony. The amount of an award of durational alimony
 105 may be modified or terminated based upon a substantial change in
 106 circumstances in accordance with s. 61.14. However, the length
 107 of an award of durational alimony may not be modified except
 108 under exceptional circumstances.

109 (7) Permanent alimony may be awarded to provide for the
 110 needs and necessities of life as they were established during

111 the marriage of the parties for a party who lacks the financial
 112 ability to meet his or her needs and necessities of life
 113 following a dissolution of marriage. Permanent alimony may be
 114 awarded following a marriage of long duration, following a
 115 marriage of moderate duration if such an award is appropriate
 116 upon consideration of the factors set forth in subsection (2),
 117 or following a marriage of short duration if there are
 118 exceptional circumstances. An award of permanent alimony
 119 terminates upon the death of either party or upon the remarriage
 120 of the party receiving alimony. An award may be modified or
 121 terminated based upon a substantial change in circumstances or
 122 upon the existence of a supportive relationship in accordance
 123 with s. 61.14.

124 (8)(4)(a) With respect to any order requiring the payment
 125 of alimony entered on or after January 1, 1985, unless the
 126 provisions of paragraph (c) or paragraph (d) apply, the court
 127 shall direct in the order that the payments of alimony be made
 128 through the appropriate depository as provided in s. 61.181.

129 (b) With respect to any order requiring the payment of
 130 alimony entered before January 1, 1985, upon the subsequent
 131 appearance, on or after that date, of one or both parties before
 132 the court having jurisdiction for the purpose of modifying or
 133 enforcing the order or in any other proceeding related to the
 134 order, or upon the application of either party, unless the
 135 provisions of paragraph (c) or paragraph (d) apply, the court
 136 shall modify the terms of the order as necessary to direct that
 137 payments of alimony be made through the appropriate depository
 138 as provided in s. 61.181.

139 (c) If there is no minor child, alimony payments need not
140 be directed through the depository.

141 (d)1. If there is a minor child of the parties and both
142 parties so request, the court may order that alimony payments
143 need not be directed through the depository. In this case, the
144 order of support shall provide, or be deemed to provide, that
145 either party may subsequently apply to the depository to require
146 that payments be made through the depository. The court shall
147 provide a copy of the order to the depository.

148 2. If the provisions of subparagraph 1. apply, either
149 party may subsequently file with the depository an affidavit
150 alleging default or arrearages in payment and stating that the
151 party wishes to initiate participation in the depository
152 program. The party shall provide copies of the affidavit to the
153 court and the other party or parties. Fifteen days after receipt
154 of the affidavit, the depository shall notify all parties that
155 future payments shall be directed to the depository.

156 3. In IV-D cases, the IV-D agency shall have the same
157 rights as the obligee in requesting that payments be made
158 through the depository.



159 Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 709
SPONSOR(S): Williams
TIED BILLS:

Reptiles

IDEN./SIM. BILLS: SB 318

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Policy Council		Varn 	Cicccone 
2)	Natural Resources Appropriations Committee			
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

House Bill 709 bans the possession of certain types of reptiles, including any kind of reptile designated as a reptile of concern by the Florida Fish and Wildlife Conservation Commission. The bill prohibits any person, firm, or corporation from keeping, possessing, importing into the state, selling, bartering, trading, or breeding these reptiles.

The bill provides an exception for persons who are currently licensed or acquire a license prior to July 1, 2010, to continue to possess the reptile for the remainder of its life.

The bill appears to have a minimal negative effect on the State Game Trust Fund.

The bill provides an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Fish and Wildlife Conservation Commission (FWC) has been working with the U.S. Fish and Wildlife Service, Everglades National Park, South Florida Water Management District and other partners on issues concerning Burmese pythons since 2006. In 2007 the Legislature enacted CS/SB 2766, which authorized the FWC to adopt rules for keeping or selling reptiles of concern (ROC). The FWC adopted rules 68A-6.007, 68A-6.0071 and 68A-6.0072, Florida Administrative Code (FAC), in January 2008. The rules provide the following: an applicant must be 18 years of age; maintain specific caging requirements and notification of escapes; must use micro-chipping identification and maintain accurate records. FWC records for 2008 show a majority of ROC that are purchased from major reptile dealers in Florida are sent out of state, where FWC has no jurisdiction.¹

Rule 68A-6.007, F.A.C., lists the following reptiles, including their taxonomic successors, subspecies or hybrids thereof, as reptiles of concern (ROC):

- (a) Indian or Burmese python (*Python molurus*)
- (b) Reticulated python (*Python reticulatus*)
- (c) African rock python (*Python sebae*)
- (d) Amethystine or Scrub python (*Morelia spp.*) (all species exceeding 12 feet in length upon maturity)
- (e) Green anacondas (*Eunectes murinus*); and the
- (f) Nile monitor (*Varanus niloticus*)

Section 379.373(1), F.S., requires a \$100 annual fee for a license or permit issued by the FWC for the capturing, keeping, possessing or exhibiting of venomous reptiles. Section 379.373(3), F.S., provides that once a permit or license has been issued, the FWC has the authority to inspect businesses or persons holding licenses or permits to ensure those reptiles are being caged in a secure, safe, and proper manner, and to ensure human safety. If not, the FWC will notify the permit holder or licensee and request the necessary corrections. Failure of the permit holder or licensee to correct the deficiencies within 30 days of

¹ FWC power point presentation to General Government Policy Council on 2/3/2010, on file with the House Policy Council.

written notice shall be grounds for revocation of the permit or license. Section 379.374, F.S., further provides that no person, party, firm, or corporation shall exhibit venomous reptiles to the public without first posting a bond in the amount of \$10,000 made payable to the FWC.

With regard to the safekeeping of snakes, s. 379.305, F.S., provides for a Level Three violation (equivalent to a misdemeanor of the first degree; this violation carries a fine not to exceed \$1000 and up to one year in jail) for a person who knowingly releases a nonnative venomous reptile or ROC to the wild or allows it to escape. If the person is convicted of a second Level Three violation within a ten-year period, the person is subject to a misdemeanor of the first degree with a minimum fine of a \$750 and permanent revocation of all licenses or permits to possess captive wildlife.

Licensing regulations have been in place less than two years and as of December 2009, the FWC has issued 398 licenses for the legal confinement or sale of the ROCs. Through December 2009, the FWC has conducted 480 ROC related inspections, issued 98 citations for non compliance, 132 warnings and seized 73 ROC species that were not registered with the FWC.²

In December 2009, the FWC issued Executive Order 09-21³ which established 24/7 amnesty days where current ROC licensees are allowed to surrender ROCs to qualified or licensed persons without any consequences. The FWC will take up this Executive Order to implement a permanent amnesty program at their April meeting.⁴

Beginning January 2010, the FWC issued permits for hunting ROCs on state-managed lands in South Florida. These permits will expire December 31, 2010. The FWC is contemplating extending the length of the hunting season until April, 2011. In the most recent hunt, 13 permittees captured 17 pythons. The FWC estimates approximately 380 pythons have been harvested from state wildlife management preserves and approximately 1,300 pythons have been harvested from the federal lands adjacent to the state lands.⁵

There are several bills pending in the U.S. Congress to limit or prohibit the importation of the python into the United States. Senate Bill 373 by Senator Nelson and HR 2188 by Congressman Meek identifies certain species and prohibits those species from being imported into the United States and shipped across state borders. Two other bills, HR 669 by Congressman Bordallo requires risk assessments of nonnative species and HR 3215 by Congressman Rooney allows hunting pythons in Everglades National Park.

The U.S. Fish and Wildlife Service has recently begun rulemaking that would add the nine constrictor species in Senator Nelson's bill to the "injurious wildlife" list.⁶ "Injurious wildlife" are mammals, birds, amphibians, reptiles, fish, crustaceans, mollusks and their offspring or gametes that are injurious to the interests of human beings, agriculture, horticulture, forestry, wildlife or wildlife resources of the United States.⁷ Any species on the "injurious wildlife" list is prohibited from being imported into the United States and is prohibited from interstate commerce.

Proposed Changes

The effect of HB 709 is to ban, rather than regulate, as is current law, the possession of ROCs in Florida. The bill amends s. 379.372, F.S., to prohibit persons, firms, and corporations from keeping, possessing, importing into the state, selling, bartering, trading or breeding any of the following reptiles: Burmese or

² *Id.*

³ *FWC (Florida Fish and Wildlife Conservation Commission) News Release*, December 10, 2009, on file with the House Policy Council.

⁴ Email from FWC, February 24, 2010, on file with the House Policy Council.

⁵ *FWC (Florida Fish and Wildlife Conservation Commission) News Release*, December 10, 2009, on file with the House Policy Council.

⁶ *U.S. Fish and Wildlife press release*, January 20, 2010, on file with the House Policy Council.

⁷ See the *Lacey Act* (18 U.S.C. 42; 50 CFR 16).

Indian python, reticulated python, African rock python, amethystine or scrub python, anaconda, Nile monitor or any other reptile designated as a ROC by the FWC.

The bill also provides an exemption for persons who currently have a license or permit and are in possession of a ROC to keep it for the duration of the reptile's life. Additionally, the bill requires any person who possesses an anaconda, other than a green anaconda, to obtain a permit by October 1, 2010, to maintain possession for the rest of the reptile's life.

B. SECTION DIRECTORY:

Section 1: Amends s. 379.372, F.S., banning the possession of any kind for reptiles of concern (ROC) or any other reptile designated as a ROC by the FWC from Florida. The bill also provides an exemption for persons currently holding authorized permits.

Section 2: Provides a July 1, 2010 effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There are currently 398 permits for ROCs in Florida, which generates \$39,800 per year (\$100 per license or permit). These funds are deposited into the State Game Trust Fund and used to offset the costs to administer the program and enforce ROC regulations.. The exception in the bill allows permit holders to continue to keep the ROCs until these reptiles die. If the bill were to pass, the annual fee to the State Game Trust Fund would be reduced by \$100 per year for each of the ROCs that die until the revenue source no longer exists. Based on species life expectancy, FWC estimates the renewal revenue would end in fifteen years.

2. Expenditures:

The FWC will continue to process permit renewals and inspections of the holders of the ROCs until the ROCs die or are surrendered. The cost would continue to be paid from the State Game Trust Fund.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Reptile dealers may experience a negative fiscal impact due to reduced demand or sales of specimens to individuals. Groups impacted by HB 709 include the reptile industry, hobbyists, reptile dealers, hobbyist support industries (food, caging, bedding, heating, etc.), and other persons interested in the regulation of reptiles.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

Article IV, Section 9 of the Florida Constitution creates the Florida Fish and Wildlife Conservation Commission and provides: the Commission "shall exercise the regulatory and executive powers of the state with respect to wild animal life..."⁸ The Article further provides "the legislature may enact laws in aid of the commission, not inconsistent with this section..."⁹ The bill could have possible Constitutional issues in that the bill bans reptiles of concern from the state, which would be in conflict with the rules of the Commission. In *Whitehead v. Rogers*¹⁰ the issue revolved around a rule promulgated by the Commission allowing a specific hunting period with set dates, including Sunday. The legislature had previously enacted a law banning the use of firearms on Sunday. The Court found that "While the discharge of firearms is a loud and noisy operation and not consistent with the quiet and peaceful observance of Sunday, the people by constitutional amendment placed in the hands of the Commission the responsibility to fix hunting seasons, which necessarily includes Sundays unless specifically excluded."¹¹ Sundays were not excluded from the Commission's rule. Therefore, the constitutional authority of the Commission's rules was upheld over statute by the Florida Supreme Court.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

The impact on zoos and research facilities is unknown because the bill does not address zoos and research facilities. FWC is of the opinion the bill does not apply to zoos and research facilities, and may suggest an amendment to the bill adding language specifically excluding zoos and research facilities to clarify this issue.¹²

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

⁸ See Article IV, Section 9, Florida Constitution.

⁹ *Id.*

¹⁰ See *Whitehead v. Rogers*, 223, So.2nd 330 (Fla.1969).

¹¹ *Id.*

¹² February 17, 2010 email from FWC on file with the House Policy Council.

1 A bill to be entitled
 2 An act relating to reptiles; amending s. 379.372, F.S.;
 3 prohibiting any person from possessing, importing,
 4 selling, trading, or breeding certain specified reptile
 5 species, including a reptile designated as a reptile of
 6 concern by the Fish and Wildlife Conservation Commission;
 7 providing certain exceptions applicable to reptiles for
 8 which the owner holds a permit issued before a specified
 9 date; providing an effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. Section 379.372, Florida Statutes, is amended
 14 to read:

15 379.372 Capturing, keeping, possessing, transporting, or
 16 exhibiting venomous reptiles or reptiles of concern; license
 17 required.—

18 (1) (a) No person, firm, or corporation shall capture,
 19 keep, possess, or exhibit any poisonous or venomous reptile or
 20 reptile of concern without first having obtained a special
 21 permit or license therefor from the Fish and Wildlife
 22 Conservation Commission as provided in this section.

23 (b) ~~(2)~~ By December 31, 2007, the commission shall
 24 establish a list of reptiles of concern, including venomous,
 25 nonvenomous, native, nonnative, or other reptiles, which require
 26 additional regulation for capture, possession, transportation,
 27 or exhibition due to their nature, habits, status, or potential
 28 to negatively impact humans, the environment, or ecology, ~~or~~

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29 ~~humans.~~

30 (c)~~(3)~~ It shall be unlawful for any person, firm, or
31 corporation, whether licensed hereunder or not, to capture,
32 keep, possess, or exhibit any venomous reptile or reptile of
33 concern in any manner not approved as safe, secure, and proper
34 by the commission. Venomous reptiles or reptiles of concern held
35 in captivity are subject to inspection by the commission. The
36 commission shall determine whether the reptiles are securely,
37 safely, and properly penned. In the event that the reptiles are
38 not safely penned, the commission shall report the situation in
39 writing to the person, firm, or corporation owning the reptiles.
40 Failure of the person, firm, or corporation to correct the
41 situation within 30 days after such written notice shall be
42 grounds for revocation of the license or permit of the person,
43 firm, or corporation.

44 (d)~~(4)~~ Venomous reptiles or reptiles of concern shall be
45 transported in a safe, secure, and proper manner. The commission
46 shall establish by rule the requirements for the transportation
47 of venomous reptiles or reptiles of concern.

48 (2)(a) No person, firm, or corporation shall keep,
49 possess, import into the state, sell, barter, trade, or breed
50 the following species for personal use or for sale for personal
51 use:

- 52 1. Burmese or Indian python (*Python molurus*).
- 53 2. Reticulated python (*Python reticulatus*).
- 54 3. African rock python (*Python sebae*).
- 55 4. Amethystine or scrub python (*Morelia amethystinus*).
- 56 5. Anaconda (*Eunectes*).

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57 | 6. Nile monitor (*Varanus niloticus*).

58 | 7. Any other reptile designated as a reptile of concern by
59 | the commission.

60 | (b) However, if a person holds a permit issued before July
61 | 1, 2010, pursuant to subsection (1) to legally possess a species
62 | listed in paragraph (a), that person may possess the individual
63 | reptile for the remainder of that reptile's life. Any person who
64 | possesses an anaconda, other than a green anaconda (*Eunectes*
65 | *murinus*), and who meets the required criteria must obtain a
66 | permit pursuant to subsection (1) by October 1, 2010, in order
67 | to keep that anaconda for the remainder of its life.

68 | Section 2. This act shall take effect July 1, 2010.

HB 731

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 731

Uniform Commercial Code

SPONSOR(S): Carroll

TIED BILLS: None

IDEN./SIM. BILLS: SB 1366

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Civil Justice & Courts Policy Committee	8 Y, 0 N	Bond	De La Paz
2) Policy Council		Liepshutz <i>MM</i>	Ciccone <i>JC</i>
3) Criminal & Civil Justice Policy Council			
4)			
5)			

SUMMARY ANALYSIS

The Uniform Commercial Code is a set of uniform laws regulating various business transactions and trade. The drafts of the code are developed by the Uniform Law Commissioners, a group of scholars and business representatives. The term "uniform" refers to how the separate states of the Union have separately enacted the various parts of the Uniform Commercial Code in laws that are uniform to one another.

Article 7 of the Uniform Commercial Code regulates documents of title. Documents of title are used to specify ownership of goods as they travel through commerce. Historically, business has used a paper system for documents of title.

HB 731 adopts the revised Article 7 updating the article and creating a means for electronic records that business may use in lieu of paper documents of title.

This bill does not appear to have a fiscal impact on state or local governments.

This bill provides an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Uniform Commercial Code (UCC) is a set of uniform laws regulating various business transactions and trade. The drafts of the code are developed by the Uniform Law Commissioners (ULC), who are members of the National Conference of Commissioners on Uniform State Laws, a group of scholars and business representatives. "Conference members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical."¹

Participation in the Conference is not limited to lawyers since "stakeholder" meetings are held, where the opinions of all groups concerned with a particular area can be heard.² Every state, the District of Columbia, Puerto Rico and the U.S. Virgin Islands is assessed a specific amount for the maintenance of the ULC based upon state population. Florida's assessment for 2009-2010 is \$96,700.³

In accordance with s. 13.10, F.S., Florida has six members on the Commission: three members who were appointed by the Governor; two members who were elected as life members by the Conference; and, one designated legislative employee who serves as an associate member. The term "uniform" refers to how the separate states of the Union have separately enacted the various parts of the Uniform Commercial Code in laws that are uniform to one another.

Article 7 of the Uniform Commercial Code regulates documents of title. Documents of title are used to specify ownership of goods as they travel through commerce. Historically, business has used a paper system for documents of title.

¹ <http://www.nccusl.org/Update/DesktopDefault.aspx?tabindex=0&tabid=9>

² *2008 Commission Annual Report*, p.10, available online: http://www.nccusl.org/nccusl/docs/AnnReport_08_web.pdf

³ *2009 Annual Report of the Florida Commissioners to the National Conference on Uniform State Laws, January 2010*, p. 4; the report was prepared by the Office of Legislative Services for submission to the Governor and both houses of the Legislature through their respective presiding officers.

The Uniform Law Commissioners have developed a revised Article 7 for adoption by the states. To date, 36 states have adopted the revised Article 7. The commissioners have written this explanation of documents of title and the draft changes⁴:

Revision in 2003

The original Article 7 of the Uniform Commercial Code, "Warehouse Receipts, Bills of Lading and Other Documents of Title," combined two earlier uniform acts, the Uniform Warehouse Receipts Act (1906) and the Uniform Bills of Lading Act (1909), with some principles from the Uniform Sales Act (which became Article 2-Sales of the UCC). Article 7 had not been revisited after the 1951 promulgation of the original Uniform Commercial Code until 2003, a period of 52 years. The longevity of the principles of warehouse receipts and bills of lading suggests very successful law and law-making as it pertains to the commercial storage and shipment of goods. The basic principles do not change basically in the 2003 revision. But there are reasons to readdress this area of the commercial law in 2003, which shall be discussed a little later. First, it is necessary to establish some of the basics.

Introduction to Documents of Title

The storage and shipment of tangible goods for commercial purposes has been going on for centuries. The physical side of the business is carried on by entities that provide warehouses (warehousemen) and entities that carry the goods from place of origin to destination (common carriers). These are tangible, visible businesses. What is not tangible and visible is the transfer of rights in the goods while they are stored and/or shipped. The common law provided the rules of bailment. The terminology of bailor and bailee is still incorporated in the Uniform Act. As the law developed, the transfer of rights came to depend upon the transfer of specific documents of title. The transfer of the documents from one person to another became the transfer of the rights. The title documents were warehouseman's receipts on the storage/warehouse side, and the bill of lading on the carrier side. The original uniform acts and the 2003 revision all incorporate these basics.

One of the important principles carried forward into the 2003 revision is that of negotiability. Free transfer of interests is an important policy norm throughout the UCC. In Article 7, documents of title may be negotiable. Whether a document is negotiable or non-negotiable depends upon how it identifies the transferee and how it is transferred. A negotiable document may be one of two kinds of paper documents, bearer paper or order paper. A document made out to bearer may be transferred from one person to another by simple delivery of possession. The delivery transfers the rights to the goods (therefore the title) to the transferee. Order paper is made out to a specific person. After initial delivery to the person named on the document, it may be negotiated to another person by the endorsement of the named person and delivery of possession to that other person. The rights to the goods (and therefore the title) pass with the negotiation to the transferee.

Documents of title may also be made non-negotiable. This is primarily done by a statement on the face of the instrument. Non-negotiable documents of title may also be assigned or transferred. The difference between negotiable and non-negotiable documents is the rights that they may transfer. A non-negotiable document of title transfers only the actual interests of the transferor. A negotiable document of title may transfer more than the actual interests of the transferor. If negotiated, for example, it transfers free of any claims against the issuer of the document. A non-negotiable document is not free of such claims.

⁴ http://www.nccusl.org/Update/uniformact_summaries/uniformacts-s-ucc7.asp

Negotiation as a concept exists to make commerce in goods possible. Goods would not be transferred if the purchaser always has to look behind the transaction to see who may come after the goods after the transfer is complete. Negotiation erases the peril. The principle enunciated in Article 7 is consistent with other parts of the UCC governing notes, drafts, checks and investment securities.

Electronic Documents of Title

Article 7 governs other important aspects of the transfer of rights in goods when stored or shipped, such as the liens of warehousemen and carriers and their enforcement and allocation of risk of loss of the goods either in storage or transit, but the issue of negotiation has been its single most important aspect, up to the revisions in 2003. Something very important has happened to change the way we look at the principle of negotiation. That something is computers, electronic communications and the ability to create electronic documents of title. Computers have been accused and applauded for their impact on commerce and business. Their impact on storage and shipment of goods is profound. Federal law has actually recognized electronic documents for some time, but electronic documents of title cannot be substituted one to one with tangible documents of title. Their characteristics in electronic form are not the same as their characteristics in tangible form.

The tangible form is a written document on paper with signatures of issuers and subsequent transferors. The individual document is a unique token of the rights and interests it represents. Even if there is a copy, there is always the original. This is not so with electronic documents. Originals and copies are indistinguishable from each other in electronic form. Signatures in the sense of an individual's scribing them uniquely on a piece of paper cannot be equally duplicated in an electronic document. Transferors and transferees, who are remote from each other when tangible documents are transferred, are not remote from each other in electronic media. Electronic communications can occur between any two persons anywhere in the world. Yet, it is difficult for each participant in an electronic communication to verify or authenticate the identity of the other party. To have the effective electronic documents that commerce demands, new concepts have to be introduced into the law. The concept of negotiation as we have known it in American law cannot apply in electronic media. The great addition to Article 7, therefore, is the new rules for electronic documents of title.

These rules must deal with distinct issues: recognition of electronic documents of title; statute of fraud extensions; establishment of the unique original in electronic form (sometimes thought of as authentication); and interchangeability between electronic and tangible documents of title. In addition, the rules for electronic documents of title must fit as seamlessly as possible into the existing system governing tangible documents of title. The law should avoid skewing the choice between tangible and electronic documents of title in the favor of either form. Only the actual marketplace should determine users' choices. Revised Article 7 deals with these issues and meets the test of seamless insertion into the existing law.

Recognition of Electronic Documents of Title

Recognition of electronic documents of title begins in the definition of "Document of Title:" "An electronic document of title is evidence by a record consisting of information stored in an electronic medium." Other definitions have been modified to accord with this root definition. For example, "Holder" is defined to include: "a person in control of a negotiable electronic document of title." Electronic documents of title become the equal to tangible documents of title.

Statute of Frauds Requirements

Revised Article 7 extends statute of fraud requirements to include electronic records and signatures. Any writing requirement that relates to enforceability of a document is a statute of frauds requirement. Article 7 treats electronic records and signatures as the equivalent of paper documents and written, manual signatures. This initially occurs in new definitions of "record" and "sign." A record is "information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form." The term "sign" is defined to "execute or adopt a tangible symbol" and "to attach or logically associate with the record an electronic sound, symbol or process." Within Revised Article 7, wherever the term "writing" or an equivalent may have been used before revision, the term "record" is uniformly used. When a document is required to be signed anywhere in Revised Article 7, electronic signing meets the test.

In addition, Revised Article 7 provides language stating expressly that it modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act. This express language, permitted in the federal act, avoids any issue of federal preemption. The federal statute allows specific tailoring for the purposes of incorporating electronic records and signatures into state law.

Establishing the Unique Token

It is not possible to transfer an electronic document of title in the same manner as a tangible document of title, particularly in terms of negotiating it. It cannot be guaranteed that a transfer directly from one person to the next by delivery and/or signature will transfer the authentic original document of title. An electronic alternative to the tangible system is necessary. To accomplish the equivalent system for electronic documents of title, Article 7 adapts the concept of "control" to the purpose. It is not a brand-new concept. It initially was developed in Article 8 of the Uniform Commercial Code for investment securities in the indirect holding system. The 1999 revisions to Article 9 adapted the concept further for secured transactions. Further adaptation of the concept occurred in Section 16 of the Uniform Electronic Transactions Act for promissory notes. This latter adaptation is most important for Revised Article 7, because the issues of negotiation for promissory notes are very similar to those for documents of title.

A person has control of a document of title for Article 7 purposes "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." Such a system exists when it establishes a "single authoritative copy ...which is unique, identifiable and ... unalterable." The authoritative copy must identify the person in control or the next person to whom the document has transferred. The person in control determines to whom the document is next transferred. Further, the standard requires that copies that are not authoritative, including copies of the authoritative copy, must be readily identifiable as not being the authoritative copy.

There is more than one way to meet this set of standards, unlike negotiation of a paper document, which occurs in one way only. One way to establish the single authoritative document is to have a single custodian of the electronic record, who enters all transfers of the document and identifies the person in control on its records, records that for all who want to know is the source of the single authoritative copy. In such a system, the person in control notifies the custodian of any transfer or authorized change in the document, who then notates its records appropriately and notifies the person in control and other relevant parties of the action. A transfer would obviously shift control from transferor to transferee. The transferee would become the new person in control.

Encryption technology may provide other methods for meeting these standards. Some kind of hybrid system of encryption and custodian may arise. UCC Article 7 prescribes no system per se and more than one system may develop over time. It is not possible to

predict what technology may finally bring to electronic transfer systems. Revised Article 7 allows the technology to develop without need to amend it later when a new kind of technology comes along.

Interchangeability

UCC Article 7 provides for an electronic system of transfer for electronic documents of title and for the traditional paper system of documents of title which includes negotiable documents of title. There are dual tracks. Control is the operative term with electronic documents and negotiation is the operative term for tangible documents of title. With respect to the transfer of rights in a particular group of goods, can electronic documents be converted to tangible documents and vice versa? UCC Article 7 provides for such conversions. An electronic document may be converted when the person in control surrenders control to the issuer, which then issues a tangible document of title containing a statement that it substitutes for the electronic document. The same kind of process will convert a tangible document to an electronic one. The person entitled to enforce a tangible document surrenders possession to the issuer. The electronic document must also state that it is a substitute for the tangible document. Without the ability to convert from tangible to electronic documents, this system would not work.

Proposed Change:

HB 731 amends Chapter 677 of the Florida Statutes, thereby adopting the latest revisions to Article 7 of the Uniform Commercial Code to allow (not require) electronic means for documenting title to goods in commerce, in lieu of paper documents. Paper documents of title can be converted to electronic, and electronic can be converted to paper, in order to accommodate the needs of different shippers and warehouses.

The bill corrects language and usage throughout Chapter 677 to conform to the latest revisions to Article 7, without substantive change.

The bill amends other articles of Florida's Uniform Commercial Code, without substantive change to conform to the latest revisions to Article 7.

B. SECTION DIRECTORY:

Section 1. Amends s. 559.9232, F.S., to correct a cross-reference.

Section 2. Amends s. 671.201, F.S., regarding definitions applicable to the Uniform Commercial Code.

Section 3. Amends s. 672.103, F.S., regarding definitions applicable to Article 2 of the Uniform Commercial Code (Sales).

Section 4. Amends s. 672.104, F.S., regarding definitions applicable to Article 2 of the Uniform Commercial Code (Sales).

Section 5. Amends s. 672.310, F.S., regarding delivery of goods.

Section 6. Amends s. 672.323, F.S., regarding bills of lading in international shipments.

Section 7. Amends s. 672.401, F.S., regarding transfer of title to tangible goods.

Section 8. Amends s. 672.503, F.S., regarding tender of delivery to tangible goods.

Section 9. Amends s. 672.505, F.S., regarding shipment under reservation.

Section 10. Amends s. 672.506, F.S., regarding rights of a financing agency.

- Section 11. Amends s. 672.509, F.S., regarding risk of loss of goods in shipment.
- Section 12. Amends s. 672.605, F.S., regarding waiver of a buyer's objection.
- Section 13. Amends s. 672.705, F.S., regarding stoppage of delivery.
- Section 14. Amends s. 674.104, F.S., regarding definitions applicable to Article 4 of the Uniform Commercial Code (bank deposits and collections).
- Section 15. Amends s. 674.2101, F.S., regarding security interest in bank deposits.
- Section 16. Amends s. 677.102, F.S., regarding definitions applicable to Article 7 of the Uniform Commercial Code (documents of title).
- Section 17. Amends s. 677.103, F.S., regarding relationship between law on documents of title and international law.
- Section 18. Amends s. 677.104, F.S., regarding negotiable documents of title.
- Section 19. Amends s. 677.105, F.S., regarding reissuance of a document of title in an alternative medium.
- Section 20. Creates s. 677.106, F.S., regarding control of an electronic document of title.
- Section 21. Amends s. 677.201, F.S., regarding issuance of a warehouse receipt.
- Section 22. Amends s. 677.202, F.S., regarding forms of warehouse receipts.
- Section 23. Amends s. 677.203, F.S., regarding liability for nonreceipt or misdescription in a document of title.
- Section 24. Amends s. 677.204, F.S., regarding duty of care and limitations on liability.
- Section 25. Amends s. 677.205, F.S., regarding title under warehouse receipt.
- Section 26. Amends s. 677.206, F.S., regarding termination of storage at the option of the warehouse.
- Section 27. Amends s. 677.207, F.S., regarding separation of goods.
- Section 28. Amends s. 677.208, F.S., regarding altered warehouse receipts.
- Section 29. Amends s. 677.209, F.S., regarding warehouse lien.
- Section 30. Amends s. 677.210, F.S., regarding enforcement of warehouse lien.
- Section 31. Amends s. 677.301, F.S., regarding liability for nonreceipt or misdescription.
- Section 32. Amends s. 677.302, F.S., regarding through bills of lading.
- Section 33. Amends s. 677.303, F.S., regarding diversion and reconsignment of goods.
- Section 34. Amends s. 677.304, F.S., regarding bills of lading in a set.
- Section 35. Amends s. 677.305, F.S., regarding destination bills.
- Section 36. Amends s. 677.307, F.S., regarding lien of a carrier.

- Section 37. Amends s. 677.308, F.S., regarding enforcement of a carrier's lien.
- Section 38. Amends s. 677.309, F.S., regarding duty or care and limitation of a carrier's lien.
- Section 39. Amends s. 677.401, F.S., regarding irregularities in issue of a receipt of bill.
- Section 40. Amends s. 677.402, F.S., regarding duplicate documents of title.
- Section 41. Amends s. 677.403, F.S., regarding obligation of a bailee.
- Section 42. Amends s. 677.404, F.S. regarding a limitation on liability upon good faith delivery of goods.
- Section 43. Amends s. 677.501, F.S., regarding "due negotiation."
- Section 44. Amends s. 677.502, F.S., regarding the rights acquired by due negotiation.
- Section 45. Amends s. 677.503, F.S., regarding defeat of a document of title.
- Section 46. Amends s. 677.504, F.S., regarding rights acquired in the absence of due negotiation.
- Section 47. Amends s. 677.505, F.S., regarding whether an indorser is a guarantor for other parties.
- Section 48. Amends s. 677.506, F.S., regarding delivery without indorsement.
- Section 49. Amends s. 677.507, F.S., regarding warranties on negotiation or delivery of document of title.
- Section 50. Amends s. 677.508, F.S., regarding warranties of a collecting bank.
- Section 51. Amends s. 677.509, F.S., regarding compliance with a commercial contract.
- Section 52. Amends s. 677.601, F.S., regarding lost, stolen and destroyed documents of title.
- Section 53. Amends s. 677.602, F.S., regarding judicial process against goods covered by a negotiable document of title.
- Section 54. Amends s. 677.603, F.S., regarding conflicting claims against goods.
- Section 55. Amends s. 678.1031, F.S., regarding whether a document of title is a financial asset.
- Section 56. Amends s. 679.1021, F.S., regarding definitions applicable to Article 9 of the Uniform Commercial Code (secured transactions).
- Section 57. Amends s. 679.2031, F.S., regarding attachment and enforcement of a security interest.
- Section 58. Amends s. 679.2071, F.S., regarding rights and duties of secured party in possession.
- Section 59. Amends s. 679.2081, F.S., regarding additional duties of a secured party having control of collateral.
- Section 60. Amends s. 679.3011, F.S., regarding perfection and priority of security interests.
- Section 61. Amends s. 679.3101, F.S., regarding agricultural liens.
- Section 62. Amends s. 679.3121, F.S., regarding perfection of security interest in various items.

Section 63. Amends s. 679.3131, F.S., regarding when possession or delivery can perfect a security interest without a filing.

Section 64. Amends s. 679.3141, F.S., regarding perfection by control.

Section 65. Amends s. 679.3171, F.S., regarding priority of certain security interests.

Section 66. Amends s. 679.338, F.S., regarding priority of certain security interests.

Section 67. Amends s. 680.1031, F.S., regarding definitions applicable to Article 10 of the Uniform Commercial Code (leases).

Section 68. Amends s. 680.514, F.S., regarding waiver of a lessee's objections.

Section 69. Amends s. 680.526, F.S., regarding lessor's stoppage of delivery in transit.

Section 70. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill is anticipated to lower the cost of doing business. It is not anticipated that this bill will have any negative economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Uniform Law Commissioners have urged states to revise their statutes to conform to the latest revisions to UCC Article 7 by including the following written exhortation at the end of their explanation of their adopted changes:

Other Benefits to Revision

The revisions to UCC Article 7, beyond making way for electronic documents of title, primarily update or clarify existing rules of law. There are references to tariffs and regulations in original UCC Article 7 that no longer exist with deregulation. These have been eliminated in the revision. There is nothing as significant as the rules for electronic documents of title. But these rules alone make it imperative for the states to enact the revision to UCC Article 7 as soon as practicable. Documents of title are fundamental to the transfer of goods in interstate commerce. The new rules are wholly commerce friendly and every state needs them as soon as possible.⁵

The Business Law Section of the Florida Bar has taken a position in support of "Revised Article 7 of [the] UCC developed by NCCUSL [National Conference of Commissioners on Uniform State Laws] relating to electronic documents of title, warehouse receipts, and bills of lading."⁶ The members of the Section "share a common interest in laws affecting Florida's businesses, including corporate, contract, bankruptcy, franchise, antitrust, securities, and intellectual property law. The Section also addresses the process for resolving business disputes in Florida, including commercial litigation and alternative dispute resolution."⁷ "Section positions are advanced with the voluntary dues and separate resources of those groups – and in their name only."⁸ According to the bylaws of the Florida Bar, a legislative action taken by a Section, which would include a position in regard to legislation, is an action of the Section and not the Florida Bar.⁹

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

⁵ *Id.*

⁶

<http://www.floridabar.org/tfb/TFBLegNW.nsf/dc7ee304c562ed5b85256709006a26ee/e9db5ca1c9671a0385256b2f006cd0ce?OpenDocument#Bus> The Section's position became official January 29, 2010.

⁷ <http://flabizlaw.org/>

⁸

<http://www.floridabar.org/tfb/TFBLegNW.nsf/DC7EE304C562ED5B85256709006A26EE/2AAB8D7FB749CDD885256B2F006CD7DE?OpenDocument#How%20The%20Florida%20Bar%20May%20Advocate>

⁹ *Bylaw 2-7.5 Legislative Action of Sections and Divisions* available on-line:
<https://www.floridabar.org/divexe/rrtfb.nsf/FV/445E7D76498EB3DD85256BC00056E26C>

29 an issuer of the electronic document to issue a tangible
 30 document of title as a substitute for the electronic
 31 document under certain conditions; authorizing an issuer
 32 of a tangible document to issue an electronic document of
 33 title as a substitute for the tangible document under
 34 certain conditions; creating s. 677.106, F.S.; providing
 35 when certain persons have control of an electronic
 36 document of title; amending s. 677.204, F.S.; revising
 37 liability of certain damages; authorizing a warehouse
 38 receipt or storage agreement to provide certain
 39 requirements; amending s. 677.209, F.S.; revising
 40 conditions for a warehouse to establish a lien against a
 41 bailor; providing when and against whom the lien is
 42 effective; amending s. 677.210, F.S.; revising provisions
 43 relating to the enforcement of liens; amending s. 677.303,
 44 F.S.; prohibiting liability for certain carriers; amending
 45 s. 677.307, F.S.; revising conditions under which a
 46 carrier has a lien on goods covered by a bill of lading;
 47 amending s. 677.308, F.S.; revising provisions relating to
 48 the enforcement of a carrier's lien; amending s. 677.309,
 49 F.S.; revising provisions relating to the contractual
 50 limitation of a carrier's liability; amending s. 677.501,
 51 F.S.; providing requirements for negotiable tangible
 52 documents of title and negotiable electronic documents of
 53 title; amending s. 677.504, F.S.; providing condition
 54 under which the rights of the transferee may be defeated;
 55 amending s. 677.601, F.S.; revising provisions relating to
 56 lost, stolen, or destroyed documents of title; amending s.

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57 | 678.1031, F.S.; providing that certain documents of title
 58 | are not financial assets; amending s. 679.2081, F.S.;
 59 | providing requirements for secured parties having control
 60 | of an electronic document; providing an effective date.

61 |

62 | Be It Enacted by the Legislature of the State of Florida:

63 |

64 | Section 1. Paragraph (f) of subsection (2) of section
 65 | 559.9232, Florida Statutes, is amended to read:

66 | 559.9232 Definitions; exclusion of rental-purchase
 67 | agreements from certain regulations.—

68 | (2) A rental-purchase agreement that complies with this
 69 | act shall not be construed to be, nor be governed by, any of the
 70 | following:

71 | (f) A security interest as defined in s. 671.201~~(38)~~(35).

72 | Section 2. Present subsections (25) through (43) of
 73 | section 671.201, Florida Statutes, are renumbered as subsections
 74 | (28) through (46), respectively, new subsections (25), (26), and
 75 | (27) are added to that section, and present subsections (5),
 76 | (6), (10), (15), (16), (21), and (42) are amended, to read:

77 | 671.201 General definitions.—Unless the context otherwise
 78 | requires, words or phrases defined in this section, or in the
 79 | additional definitions contained in other chapters of this code
 80 | which apply to particular chapters or parts thereof, have the
 81 | meanings stated. Subject to definitions contained in other
 82 | chapters of this code which apply to particular chapters or
 83 | parts thereof, the term:

84 | (5) "Bearer" means a person in control of a negotiable

85 electronic document of title or a person in possession of a
 86 negotiable instrument, a negotiable tangible document of title,
 87 or a certificated security that is payable to bearer or indorsed
 88 in blank.

89 (6) "Bill of lading" means a document of title evidencing
 90 the receipt of goods for shipment issued by a person engaged in
 91 the business of directly or indirectly transporting or
 92 forwarding goods. The term does not include a warehouse receipt.

93 (10) "Conspicuous," with reference to a term, means so
 94 written, displayed, or presented that a reasonable person
 95 against which ~~whom~~ it is to operate ought to have noticed it.
 96 Whether a term is "conspicuous" is a decision for the court.
 97 Conspicuous terms include the following:

98 (a) A heading in capitals ~~in a size~~ equal to or greater in
 99 size ~~larger~~ than ~~that of~~ the surrounding text, or in contrasting
 100 ~~a~~ type, font, or color ~~in contrast~~ to the surrounding text of
 101 the same or lesser size; and.

102 (b) Language in the body of a record or display in larger
 103 type ~~larger~~ than ~~that of~~ the surrounding text; ~~in a type, font,~~
 104 ~~or color in contrast to the surrounding text~~ of the same size;
 105 or set off from surrounding text of the same size by symbols or
 106 other marks that call attention to the language.

107 (15) "Delivery," with respect to an electronic document of
 108 title, means voluntary transfer of control and "delivery," with
 109 respect to instruments ~~instrument~~, tangible document of title,
 110 ~~or~~ chattel paper, or certificated securities, means voluntary
 111 transfer of possession.

112 (16) "Document of title" means a record:

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113 (a) ~~includes bill of lading, dock warrant, dock receipt,~~
 114 ~~warehouse receipt or order for the delivery of goods, and any~~
 115 ~~other document~~ That in the regular course of business or
 116 financing is treated as adequately evidencing that the person in
 117 possession or control of the record ~~it~~ is entitled to receive,
 118 control, hold, and dispose of the record ~~document~~ and the goods
 119 the record ~~it~~ covers; and

120 (b) That purports to be issued by or addressed to a bailee
 121 and to cover goods in the bailee's possession which are either
 122 identified or are fungible portions of an identified mass. The
 123 term includes a bill of lading, transport document, dock
 124 warrant, dock receipt, warehouse receipt, and order for delivery
 125 of goods. An electronic document of title means a document of
 126 title evidenced by a record consisting of information stored in
 127 an electronic medium. A tangible document of title means a
 128 document of title evidenced by a record consisting of
 129 information that is inscribed on a tangible medium. ~~To be a~~
 130 ~~document of title, a document must purport to be issued by or~~
 131 ~~addressed to a bailee and purport to cover goods in the bailee's~~
 132 ~~possession which are either identified or are fungible portions~~
 133 ~~of an identified mass.~~

134 (21) "Holder" means:

135 (a) The person in possession of a negotiable instrument
 136 that is payable either to bearer or to an identified person that
 137 is the person in possession; ~~or~~

138 (b) The person in possession of a negotiable tangible
 139 document of title if the goods are deliverable either to bearer
 140 or to the order of the person in possession; or.

141 (c) The person in control of a negotiable electronic
 142 document of title.

143 (25) Subject to subsection (27), a person has "notice" of
 144 a fact if the person:

145 (a) Has actual knowledge of it;
 146 (b) Has received a notice or notification of it; or
 147 (c) From all the facts and circumstances known to the
 148 person at the time in question, has reason to know that it
 149 exists. A person "knows" or has "knowledge" of a fact when the
 150 person has actual knowledge of it. "Discover" or "learn" or a
 151 word or phrase of similar import refers to knowledge rather than
 152 to reason to know. The time and circumstances under which a
 153 notice or notification may cease to be effective are not
 154 determined by this section.

155 (26) A person "notifies" or "gives" a notice or
 156 notification to another person by taking such steps as may be
 157 reasonably required to inform the other person in ordinary
 158 course, whether or not the other person actually comes to know
 159 of it. Subject to subsection (27), a person "receives" a notice
 160 or notification when:

161 (a) It comes to that person's attention; or
 162 (b) It is duly delivered in a form reasonable under the
 163 circumstances at the place of business through which the
 164 contract was made or at another location held out by that person
 165 as the place for receipt of such communications.

166 (27) Notice, knowledge, or a notice or notification
 167 received by an organization is effective for a particular
 168 transaction from the time when it is brought to the attention of

169 the individual conducting that transaction, and, in any event,
 170 from the time when it would have been brought to the
 171 individual's attention if the organization had exercised due
 172 diligence. An organization exercises due diligence if it
 173 maintains reasonable routines for communicating significant
 174 information to the person conducting the transaction and there
 175 is reasonable compliance with the routines. Due diligence does
 176 not require an individual acting for the organization to
 177 communicate information unless such communication is part of the
 178 individual's regular duties or the individual has reason to know
 179 of the transaction and that the transaction would be materially
 180 affected by the information.

181 (45)-(42) "Warehouse receipt" means a document of title
 182 ~~receipt~~ issued by a person engaged in the business of storing
 183 goods for hire.

184 Section 3. Subsection (3) of section 672.103, Florida
 185 Statutes, is amended to read:

186 672.103 Definitions and index of definitions.—

187 (3) The following definitions in other chapters apply to
 188 this chapter:

189 "Check," s. 673.1041.

190 "Consignee," s. 677.102.

191 "Consignor," s. 677.102.

192 "Consumer goods," s. 679.1021.

193 "Control," s. 677.106.

194 "Dishonor," s. 673.5021.

195 "Draft," s. 673.1041.

196 Section 4. Subsection (2) of section 672.104, Florida

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197 Statutes, is amended to read:

198 672.104 Definitions: "merchant"; "between merchants";
 199 "financing agency."—

200 (2) "Financing agency" means a bank, finance company or
 201 other person who in the ordinary course of business makes
 202 advances against goods or documents of title or who by
 203 arrangement with either the seller or the buyer intervenes in
 204 ordinary course to make or collect payment due or claimed under
 205 the contract for sale, as by purchasing or paying the seller's
 206 draft or making advances against it or by merely taking it for
 207 collection whether or not documents of title accompany or are
 208 associated with the draft. "Financing agency" includes also a
 209 bank or other person who similarly intervenes between persons
 210 who are in the position of seller and buyer in respect to the
 211 goods (s. 672.707).

212 Section 5. Subsection (3) of section 672.310, Florida
 213 Statutes, is amended to read:

214 672.310 Open time for payment or running of credit;
 215 authority to ship under reservation.—Unless otherwise agreed:

216 (3) If delivery is authorized and made by way of documents
 217 of title otherwise than by subsection (2) then payment is due
 218 regardless of where the goods are to be received at the time and
 219 place at which the buyer is to receive delivery of the tangible
 220 documents or at the time the buyer is to receive delivery of the
 221 electronic documents and at the seller's place of business or,
 222 if none, the seller's residence ~~regardless of where the goods~~
 223 ~~are to be received;~~ and

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224 Section 6. Section 672.323, Florida Statutes, is amended
 225 to read:

226 672.323 Form of bill of lading required in overseas
 227 shipment; "overseas."—

228 (1) Where the contract contemplates overseas shipment and
 229 contains a term "C.I.F." or "C. & F. or F.O.B. vessel," the
 230 seller unless otherwise agreed shall ~~must~~ obtain a negotiable
 231 bill of lading stating that the goods have been loaded in ~~on~~
 232 board or, in the case of a term "C.I.F." or "C. & F.," received
 233 for shipment.

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

240 (a) Due tender of a single part is acceptable within the
 241 provisions of this chapter on cure of improper delivery (s.
 242 672.508(1)); and

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

247 (3) A shipment by water or by air or a contract
 248 contemplating such shipment is "overseas" insofar as by usage of
 249 trade or agreement it is subject to the commercial, financing or
 250 shipping practices characteristic of international deepwater
 251 commerce.

252 Section 7. Subsections (2) and (3) of section 672.401,
 253 Florida Statutes, are amended to read:

254 672.401 Passing of title; reservation for security;
 255 limited application of this section.—Each provision of this
 256 chapter with regard to the rights, obligations and remedies of
 257 the seller, the buyer, purchasers or other third parties applies
 258 irrespective of title to the goods except where the provision
 259 refers to such title. Insofar as situations are not covered by
 260 the other provisions of this chapter and matters concerning
 261 title become material the following rules apply:

262 (2) Unless otherwise explicitly agreed title passes to the
 263 buyer at the time and place at which the seller completes her or
 264 his performance with reference to the physical delivery of the
 265 goods, despite any reservation of a security interest and even
 266 though a document of title is to be delivered at a different
 267 time or place; and in particular and despite any reservation of
 268 a security interest by the bill of lading:

269 (a) If the contract requires or authorizes the seller to
 270 send the goods to the buyer but does not require him or her ~~the~~
 271 ~~seller~~ to deliver them at destination, title passes to the buyer
 272 at the time and place of shipment; but

273 (b) If the contract requires delivery at destination,
 274 title passes on tender there.

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

277 (a) If the seller is to deliver a tangible document of
 278 title, title passes at the time when and the place where he or
 279 she ~~the seller~~ delivers such documents and if the seller is to

280 deliver an electronic document of title, title passes when the
 281 seller delivers the document; or

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

285 Section 8. Subsections (4) and (5) of section 672.503,
 286 Florida Statutes, are amended to read:

287 672.503 Manner of seller's tender of delivery.—

288 (4) Where goods are in the possession of a bailee and are
 289 to be delivered without being moved:

290 (a) Tender requires that the seller either tender a
 291 negotiable document of title covering such goods or procure
 292 acknowledgment by the bailee of the buyer's right to possession
 293 of the goods; but

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

306 (5) Where the contract requires the seller to deliver
 307 documents:

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308 (a) He or she shall ~~must~~ tender all such documents in
 309 correct form, except as provided in this chapter with respect to
 310 bills of lading in a set (s. 672.323(2)); and

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

314 Section 9. Section 672.505, Florida Statutes, is amended
 315 to read:

316 672.505 Seller's shipment under reservation.—

317 (1) Where the seller has identified goods to the contract
 318 by or before shipment:

319 (a) His or her ~~The seller's~~ procurement of a negotiable
 320 bill of lading to his or her own order or otherwise reserves in
 321 him or her ~~the seller~~ a security interest in the goods. His or
 322 her procurement of the bill to the order of a financing agency
 323 or of the buyer indicates in addition only the seller's
 324 expectation of transferring that interest to the person named.

325 (b) A nonnegotiable bill of lading to himself or herself
 326 or his or her nominee reserves possession of the goods as
 327 security but except in a case of conditional delivery (s.
 328 672.507(2)) a nonnegotiable bill of lading naming the buyer as
 329 consignee reserves no security interest even though the seller
 330 retains possession or control of the bill of lading.

331 (2) When shipment by the seller with reservation of a
 332 security interest is in violation of the contract for sale it
 333 constitutes an improper contract for transportation within the
 334 preceding section but impairs neither the rights given to the
 335 buyer by shipment and identification of the goods to the

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336 contract nor the seller's powers as a holder of a negotiable
 337 document of title.

338 Section 10. Subsection (2) of section 672.506, Florida
 339 Statutes, is amended to read:

340 672.506 Rights of financing agency.—

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

346 Section 11. Subsection (2) of section 672.509, Florida
 347 Statutes, is amended to read:

348 672.509 Risk of loss in the absence of breach.—

349 (2) Where the goods are held by a bailee to be delivered
 350 without being moved, the risk of loss passes to the buyer:

351 (a) On her or his receipt of possession or control of a
 352 negotiable document of title covering the goods; or

353 (b) On acknowledgment by the bailee of the buyer's right
 354 to possession of the goods; or

355 (c) After her or his receipt of possession or control of a
 356 nonnegotiable document of title or other ~~written~~ direction to
 357 deliver in a record, as provided in s. 672.503(4)(b).

358 Section 12. Subsection (2) of section 672.605, Florida
 359 Statutes, is amended to read:

360 672.605 Waiver of buyer's objections by failure to
 361 particularize.—

362 (2) Payment against documents made without reservation of
 363 rights precludes recovery of the payment for defects apparent in

364 ~~on the face of~~ the documents.

365 Section 13. Subsections (2) and (3) of section 672.705,
366 Florida Statutes, are amended to read:

367 672.705 Seller's stoppage of delivery in transit or
368 otherwise.—

369 (2) As against such buyer the seller may stop delivery
370 until:

371 (a) Receipt of the goods by the buyer; or

372 (b) Acknowledgment to the buyer by any bailee of the goods
373 except a carrier that the bailee holds the goods for the buyer;
374 or

375 (c) Such acknowledgment to the buyer by a carrier by
376 reshipment or as a warehouse ~~warehouseman~~; or

377 (d) Negotiation to the buyer of any negotiable document of
378 title covering the goods.

379 (3)(a) To stop delivery the seller shall ~~must~~ so notify as
380 to enable the bailee by reasonable diligence to prevent delivery
381 of the goods.

382 (b) After such notification the bailee shall ~~must~~ hold and
383 deliver the goods according to the directions of the seller but
384 the seller is liable to the bailee for any ensuing charges or
385 damages.

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

389 (d) A carrier who has issued a nonnegotiable bill of
390 lading is not obliged to obey a notification to stop received
391 from a person other than the consignor.

392 Section 14. Subsection (3) of section 674.104, Florida
 393 Statutes, is amended to read:

394 674.104 Definitions and index of definitions.—

395 (3) The following definitions in other chapters apply to
 396 this chapter:

397 "Acceptance," s. 673.4091.

398 "Alteration," s. 673.4071.

399 "Cashier's check," s. 673.1041.

400 "Certificate of deposit," s. 673.1041.

401 "Certified check," s. 673.4091.

402 "Check," s. 673.1041.

403 "Control," s. 677.106.

404 "Good faith," s. 673.1031.

405 "Holder in due course," s. 673.3021.

406 "Instrument," s. 673.1041.

407 "Notice of dishonor," s. 673.5031.

408 "Order," s. 673.1031.

409 "Ordinary care," s. 673.1031.

410 "Person entitled to enforce," s. 673.3011.

411 "Presentment," s. 673.5011.

412 "Promise," s. 673.1031.

413 "Prove," s. 673.1031.

414 "Teller's check," s. 673.1041.

415 "Unauthorized signature," s. 673.4031.

416 Section 15. Subsection (3) of section 674.2101, Florida
 417 Statutes, is amended to read:

418 674.2101 Security interest of collecting bank in items,
 419 accompanying documents, and proceeds.—

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420 (3) Receipt by a collecting bank of a final settlement for
 421 an item is a realization on its security interest in the item,
 422 accompanying documents, and proceeds. So long as the bank does
 423 not receive final settlement for the item or give up possession
 424 of the item or possession or control of the accompanying
 425 documents for purposes other than collection, the security
 426 interest continues to that extent and is subject to chapter 679,
 427 but:

428 (a) No security agreement is necessary to make the
 429 security interest enforceable (s. 679.2031(2)(c)1.);

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

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

435 Section 16. Section 677.102, Florida Statutes, is amended
 436 to read:

437 677.102 Definitions and index of definitions.—

438 (1) In this chapter, unless the context otherwise
 439 requires:

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

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

445 ~~(c)-(b)~~ "Consignee" means a ~~the~~ person named in a bill of
 446 lading to which ~~whom~~ or to whose order the bill promises
 447 delivery.

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

451 (e)~~(d)~~ "Delivery order" means a record that contains an
 452 written order to deliver goods directed to a warehouse
 453 warehouseman, carrier, or other person that ~~who~~ in the ordinary
 454 course of business issues warehouse receipts or bills of lading.

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

457 ~~(e)~~ "Document" means ~~document of title as defined in the~~
 458 ~~general definitions in chapter 671 (s. 671.201).~~

459 (g)~~(f)~~ "Goods" means all things that ~~which~~ are treated as
 460 movable for the purposes of a contract of storage or
 461 transportation.

462 (h)~~(g)~~ "Issuer" means a bailee who issues a document of
 463 title or, in the case of ~~except that in relation to an~~
 464 unaccepted delivery order, ~~it means~~ the person who orders the
 465 possessor of goods to deliver. The term Issuer includes a ~~any~~
 466 person for which ~~whom~~ an agent or employee purports to act in
 467 issuing a document if the agent or employee has real or apparent
 468 authority to issue documents, notwithstanding that the issuer
 469 received no goods or that the goods were misdescribed or that in
 470 any other respect the agent or employee violated his or her
 471 instructions.

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

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476 document of title.

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

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

482 (l) "Sign" means, with present intent to authenticate or
 483 adopt a record:

- 484 1. To execute or adopt a tangible symbol; or
 485 2. To attach to or logically associate with the record an
 486 electronic sound, symbol, or process.

487 ~~(m)-(h)~~ "Warehouse" means "Warehouseman" is a person
 488 engaged in the business of storing goods for hire.

489 ~~(2) Other definitions applying to this chapter or to~~
 490 ~~specified parts thereof, and the sections in which they appear~~
 491 ~~are:~~

492 ~~"Duly negotiate," s. 677.501.~~

493 ~~"Person entitled under the document," s. 677.403(4).~~

494 ~~(3)~~ Definitions in other chapters applying to this chapter
 495 and the sections in which they appear are:

496 "Contract for sale," s. 672.106.

497 ~~"Overseas," s. 672.323.~~

498 "Lessee in ordinary course of business," s. 680.1031.

499 "Receipt" of goods, s. 672.103.

500 ~~(3)-(4)~~ In addition, chapter 671 contains general
 501 definitions and principles of construction and interpretation
 502 applicable throughout this chapter.

503 Section 17. Section 677.103, Florida Statutes, is amended

504 to read:

505 677.103 Relation of chapter to treaty, statute, tariff,
506 classification or regulation.—

507 (1) Except as otherwise provided in this chapter, this
508 chapter is subject to the extent that any treaty or statute of
509 the United States to the extent the treaty or statute,
510 regulatory statute of this state or tariff, classification or
511 regulation filed or issued pursuant thereto is applicable, the
512 provisions of this chapter are subject thereto.

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

520 (3) This chapter modifies, limits, and supersedes the
521 federal Electronic Signatures in Global and National Commerce
522 Act, 15 U.S.C. ss. 7001, et seq., but does not modify, limit, or
523 supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or
524 authorize electronic delivery of any of the notices described in
525 s. 103(b) of that act, 15 U.S.C. s. 7003(b).

526 (4) To the extent that there is a conflict between any
527 provisions of the laws of this state regarding electronic
528 transactions and this chapter, this chapter governs.

529 Section 18. Section 677.104, Florida Statutes, is amended
530 to read:

531 677.104 Negotiable and nonnegotiable ~~warehouse receipt,~~

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532 ~~bill of lading or other~~ document of title.-

533 (1) Except as otherwise provided in subsection (3), a
 534 ~~warehouse receipt, bill of lading or other~~ document of title is
 535 negotiable:

536 (a) if by its terms the goods are to be delivered to
 537 bearer or to the order of a named person; ~~or~~

538 ~~(b) Where recognized in overseas trade, if it runs to a~~
 539 ~~named person or assigns.~~

540 (2) A document of title other than one described in
 541 subsection (1) Any other document is nonnegotiable. A bill of
 542 lading that states in which it is stated that the goods are
 543 consigned to a named person is not made negotiable by a
 544 provision that the goods are to be delivered only against an a
 545 ~~written~~ order in a record signed by the same or another named
 546 person.

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

550 Section 19. Section 677.105, Florida Statutes, is amended
 551 to read:

552 677.105 Reissuance in alternative medium Construction
 553 ~~against negative implication.-~~

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

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

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

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

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

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

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

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

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

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

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

586 (b) The person that procured issuance of the electronic
 587 document warrants to all subsequent persons entitled under the

588 electronic document that the warrantor was a person entitled
 589 under the tangible document when the warrantor surrendered
 590 possession of the tangible document to the issuer. ~~The omission~~
 591 ~~from either part II or part III of this chapter of a provision~~
 592 ~~corresponding to a provision made in the other part does not~~
 593 ~~imply that a corresponding rule of law is not applicable.~~

594 Section 20. Section 677.106, Florida Statutes, is created
 595 to read:

596 677.106 Control of electronic document of title.-

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

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

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

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

- 610 1. The person to which the document was issued; or
- 611 2. If the authoritative copy indicates that the document
 612 has been transferred, the person to which the document was most
 613 recently transferred;

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

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

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

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

625 Section 21. Section 677.201, Florida Statutes, is amended
 626 to read:

627 677.201 Persons that ~~who~~ may issue a warehouse receipt;
 628 storage under ~~government~~ bond.-

629 (1) A warehouse receipt may be issued by any warehouse
 630 ~~warehouseman.~~

631 (2) If ~~Where~~ goods, including distilled spirits and
 632 agricultural commodities, are stored under a statute requiring a
 633 bond against withdrawal or a license for the issuance of
 634 receipts in the nature of warehouse receipts, a receipt issued
 635 for the goods is deemed to be ~~has like effect as~~ a warehouse
 636 receipt even if ~~though~~ issued by a person that ~~who~~ is the owner
 637 of the goods and is not a warehouse ~~warehouseman.~~

638 Section 22. Section 677.202, Florida Statutes, is amended
 639 to read:

640 677.202 Form of warehouse receipt; effect of omission
 641 ~~essential terms; optional terms.-~~

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

644 (2) Unless a warehouse receipt provides for ~~embodies~~
645 ~~within its written or printed terms~~ each of the following, the
646 warehouse warehouseman is liable for damages caused to a person
647 injured by its ~~by the omission to a person injured thereby:~~

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

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

651 (c) The unique identification code ~~consecutive number~~ of
652 the receipt;

653 (d) A statement whether the goods received will be
654 delivered to the bearer, to a named ~~specified~~ person, or to a
655 named ~~specified~~ person or its ~~his or her~~ order;

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

660 (f) A description of the goods or ~~of~~ the packages
661 containing them;

662 (g) The signature of the warehouse or its ~~warehouseman,~~
663 ~~which may be made by his or her authorized agent;~~

664 (h) If the receipt is issued for goods that the warehouse
665 owns ~~of which the warehouseman is owner~~, either solely, ~~or~~
666 jointly, or in common with others, a statement of the fact of
667 that ~~such~~ ownership; and

668 (i) A statement of the amount of advances made and of
669 liabilities incurred for which the warehouse ~~warehouseman~~ claims

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670 a lien or security interest, unless ~~(s. 677.209)~~. If the precise
 671 amount of ~~such~~ advances made or ~~of such~~ liabilities incurred ~~is,~~
 672 at the time of the issue of the receipt ~~is,~~ unknown to the
 673 warehouse ~~warehouseman~~ or to its ~~his or her~~ agent that issued
 674 the receipt, in which case ~~who issues it,~~ a statement of the
 675 fact that advances have been made or liabilities incurred and
 676 the purpose of the advances or liabilities ~~thereof~~ is
 677 sufficient.

678 (3) A warehouse ~~warehouseman~~ may insert in its ~~his or her~~
 679 receipt any ~~other~~ terms that ~~which~~ are not contrary to the
 680 provisions of this code and do not impair its ~~his or her~~
 681 obligation of delivery under s. 677.403 ~~(s. 677.403)~~ or its ~~his~~
 682 ~~or her~~ duty of care under s. 677.204 ~~(s. 677.204)~~. Any contrary
 683 provision is ~~provisions shall be~~ ineffective.

684 Section 23. Section 677.203, Florida Statutes, is amended
 685 to read:

686 677.203 Liability of nonreceipt or misdescription.—A party
 687 to or purchaser for value in good faith of a document of title,
 688 other than a bill of lading, that relies ~~relying in either case~~
 689 upon the description ~~therein~~ of the goods in the document may
 690 recover from the issuer damages caused by the nonreceipt or
 691 misdescription of the goods, except to the extent that:

692 (1) The document conspicuously indicates that the issuer
 693 does not know whether all or ~~any part or all~~ of the goods in
 694 fact were received or conform to the description, such as a case
 695 in which ~~as where~~ the description is in terms of marks or labels
 696 or kind, quantity or condition, or the receipt or description is
 697 qualified by "contents, condition and quality unknown," "said to

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698 contain," or words of similar import ~~the like~~, if such
 699 indication is ~~be~~ true;r or

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

702 Section 24. Section 677.204, Florida Statutes, is amended
 703 to read:

704 677.204 Duty of care; contractual limitation of
 705 warehouse's ~~warehouseman's~~ liability.-

706 (1) A warehouse ~~warehouseman~~ is liable for damages for
 707 loss of or injury to the goods caused by its ~~his or her~~ failure
 708 to exercise ~~such~~ care with in regard to the goods that ~~them as~~ a
 709 reasonably careful person would exercise under similar ~~like~~
 710 circumstances. ~~but~~ Unless otherwise agreed, the warehouse ~~he or~~
 711 ~~she~~ is not liable for damages that ~~which~~ could not have been
 712 avoided by the exercise of that ~~such~~ care.

713 (2) Damages may be limited by a term in the warehouse
 714 receipt or storage agreement limiting the amount of liability in
 715 case of loss or damage, ~~and setting forth a specific liability~~
 716 ~~per article or item, or value per unit of weight,~~ beyond which
 717 the warehouse is ~~warehouseman shall~~ not be liable; ~~provided,~~
 718 ~~however, that such liability may on written.~~ Such a limitation
 719 is not effective with respect to the warehouse's liability for
 720 conversion to its own use. On request of the bailor in a record
 721 at the time of signing the ~~such~~ storage agreement or within a
 722 reasonable time after receipt of the warehouse receipt, the
 723 warehouse's liability may be increased on part or all of the
 724 goods covered by the storage agreement or the warehouse receipt.
 725 In this event, thereunder, ~~in which event~~ increased rates may be

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726 charged based on an ~~such~~ increased valuation of the goods, ~~but~~
 727 ~~that no such increase shall be permitted contrary to a lawful~~
 728 ~~limitation of liability contained in the warehouseman's tariff,~~
 729 ~~if any. No such limitation is effective with respect to the~~
 730 ~~warehouseman's liability for conversion to his or her own use.~~

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

734 (4)~~(3)~~ This section does not impair or repeal any statute
 735 which imposes a higher responsibility upon the warehouse
 736 ~~warehouseman~~ or invalidates contractual limitations which would
 737 be permissible under this chapter.

738 Section 25. Section 677.205, Florida Statutes, is amended
 739 to read:

740 677.205 Title under warehouse receipt defeated in certain
 741 cases.—A buyer in ~~the~~ ordinary course of business of fungible
 742 goods sold and delivered by a warehouse that ~~warehouseman who~~ is
 743 also in the business of buying and selling such goods takes the
 744 goods free of any claim under a warehouse receipt even if the
 745 receipt is negotiable and ~~though it~~ has been duly negotiated.

746 Section 26. Section 677.206, Florida Statutes, is amended
 747 to read:

748 677.206 Termination of storage at warehouse's
 749 ~~warehouseman's~~ option.—

750 (1) A warehouse, by giving notice to ~~warehouseman may on~~
 751 ~~notifying~~ the person on whose account the goods are held and any
 752 other person known to claim an interest in the goods, may
 753 require payment of any charges and removal of the goods from the

754 warehouse at the termination of the period of storage fixed by
 755 the document of title, or, if a ~~no~~ period is not fixed, within a
 756 stated period not less than 30 days after the warehouse gives
 757 notice ~~notification~~. If the goods are not removed before the
 758 date specified in the notice ~~notification~~, the warehouse
 759 ~~warehouseman~~ may sell them pursuant to s. 677.210 ~~in accordance~~
 760 ~~with the provisions of the section on enforcement of a~~
 761 ~~warehouseman's lien (s. 677.210).~~

762 (2) If a warehouse ~~warehouseman~~ in good faith believes
 763 that ~~the~~ goods are about to deteriorate or decline in value to
 764 less than the amount of its ~~his or her~~ lien within the time
 765 provided ~~prescribed~~ in subsection (1) and s. 677.210 ~~for~~
 766 ~~notification, advertisement and sale~~, the warehouse ~~warehouseman~~
 767 may specify in the notice given under subsection (1)
 768 ~~notification~~ any reasonable shorter time for removal of the
 769 goods and, if in case the goods are not removed, may sell them
 770 at public sale held not less than 1 week after a single
 771 advertisement or posting.

772 (3) If, as a result of a quality or condition of the goods
 773 of which the warehouse did not have ~~warehouseman had no~~ notice
 774 at the time of deposit, the goods are a hazard to other
 775 property, or to the warehouse facilities, or other to persons,
 776 the warehouse ~~warehouseman~~ may sell the goods at public or
 777 private sale without advertisement or posting on reasonable
 778 notification to all persons known to claim an interest in the
 779 goods. If the warehouse, warehouseman after a reasonable effort,
 780 is unable to sell the goods, it ~~he or she~~ may dispose of them in
 781 any lawful manner and does not ~~shall~~ incur ~~no~~ liability by

782 reason of that ~~such~~ disposition.

783 (4) A warehouse shall ~~The warehouseman must~~ deliver the
 784 goods to any person entitled to them under this chapter upon due
 785 demand made at any time before ~~prior to~~ sale or other
 786 disposition under this section.

787 (5) A warehouse ~~The warehouseman~~ may satisfy its ~~his or~~
 788 ~~her~~ lien from the proceeds of any sale or disposition under this
 789 section but shall ~~must~~ hold the balance for delivery on the
 790 demand of any person to which the warehouse ~~whom he or she~~ would
 791 have been bound to deliver the goods.

792 Section 27. Section 677.207, Florida Statutes, is amended
 793 to read:

794 677.207 Goods shall ~~must~~ be kept separate; fungible
 795 goods.-

796 (1) Unless the warehouse receipt ~~otherwise~~ provides
 797 otherwise, a warehouse shall ~~warehouseman must~~ keep separate the
 798 goods covered by each receipt so as to permit at all times
 799 identification and delivery of those goods. However, ~~except that~~
 800 different lots of fungible goods may be commingled.

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

809 Section 28. Section 677.208, Florida Statutes, is amended

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810 to read:

811 677.208 Altered warehouse receipts.—~~If~~ Where a blank in a
 812 negotiable warehouse receipt has been filled in without
 813 authority, a good faith purchaser for value and without notice
 814 of the lack ~~want~~ of authority may treat the insertion as
 815 authorized. Any other unauthorized alteration leaves any
 816 tangible or electronic warehouse receipt enforceable against the
 817 issuer according to its original tenor.

818 Section 29. Section 677.209, Florida Statutes, is amended
 819 to read:

820 677.209 Lien of warehouse ~~warehouseman~~.—

821 (1) A warehouse ~~warehouseman~~ has a lien against the bailor
 822 on the goods covered by a warehouse receipt or storage agreement
 823 or on the proceeds thereof in its ~~his or her~~ possession for
 824 charges for storage or transportation, including demurrage and
 825 terminal charges ~~(including demurrage and terminal charges)~~,
 826 insurance, labor, or other charges, present or future, in
 827 relation to the goods, and for expenses necessary for
 828 preservation of the goods or reasonably incurred in their sale
 829 pursuant to law. If the person on whose account the goods are
 830 held is liable for similar ~~like~~ charges or expenses in relation
 831 to other goods whenever deposited and it is stated in the
 832 warehouse receipt or storage agreement that a lien is claimed
 833 for charges and expenses in relation to other goods, the
 834 warehouse ~~warehouseman~~ also has a lien against the goods covered
 835 by the warehouse receipt or storage agreement or on the proceeds
 836 thereof in its possession ~~him or her~~ for those ~~such~~ charges and
 837 expenses, whether or not the other goods have been delivered by

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838 | the warehouse ~~warehouseman~~. However, as ~~But~~ against a person to
 839 | which ~~whom~~ a negotiable warehouse receipt is duly negotiated, a
 840 | warehouse's ~~warehouseman's~~ lien is limited to charges in an
 841 | amount or at a rate specified in ~~on~~ the warehouse receipt or, if
 842 | no charges are so specified, ~~then~~ to a reasonable charge for
 843 | storage of the specific goods covered by the receipt subsequent
 844 | to the date of the receipt.

845 | (2) A warehouse ~~The warehouseman~~ may also reserve a
 846 | security interest against the bailor for the ~~a~~ maximum amount
 847 | specified on the receipt for charges other than those specified
 848 | in subsection (1), such as for money advanced and interest. The
 849 | ~~Such a~~ security interest is governed by chapter 679 ~~the chapter~~
 850 | ~~on secured transactions (chapter 679).~~

851 | (3) A warehouse's ~~warehouseman's~~ lien for charges and
 852 | expenses under subsection (1) or a security interest under
 853 | subsection (2) is also effective against any person that ~~who~~ so
 854 | entrusted the bailor with possession of the goods that a pledge
 855 | of them by the bailor ~~him or her~~ to a good faith ~~good faith~~
 856 | purchaser for value would have been valid. However, the lien or
 857 | security interest ~~but~~ is not effective against a person that
 858 | before issuance of a document of title had a legal interest or a
 859 | perfected security interest in the goods and that did not:

- 860 | (a) Deliver or entrust the goods or any document of title
 861 | covering the goods to the bailor or the bailor's nominee with:
 862 | 1. Actual or apparent authority to ship, store, or sell;
 863 | 2. Power to obtain delivery under s. 677.403; or
 864 | 3. Power of disposition under s. 672.403, s. 680.304(2),
 865 | s. 680.305(2), s. 679.320, or s. 679.321(3) or other statute or

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866 rule of law; or

867 (b) Acquiesce in the procurement by the bailor or its
 868 nominee of any document as to whom the document confers no right
 869 in the goods covered by it under s. 677.503.

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

877 (5)-(4) A warehouse warehouseman loses its his or her lien
 878 on any goods that it which he or she voluntarily delivers or
 879 which he or she unjustifiably refuses to deliver.

880 Section 30. Section 677.210, Florida Statutes, is amended
 881 to read:

882 677.210 Enforcement of warehouse's ~~warehouseman's~~ lien.-

883 (1) Except as provided in subsection (2), a warehouse's
 884 ~~warehouseman's~~ lien may be enforced by public or private sale of
 885 the goods, in bulk or in packages ~~in block or in parcels~~, at any
 886 time or place and on any terms that ~~which~~ are commercially
 887 reasonable, after notifying all persons known to claim an
 888 interest in the goods. The ~~Such~~ notification shall ~~must~~ include
 889 a statement of the amount due, the nature of the proposed sale,
 890 and the time and place of any public sale. The fact that a
 891 better price could have been obtained by a sale at a different
 892 time or in a different method from that selected by the
 893 warehouse ~~warehouseman~~ is not of itself sufficient to establish

894 that the sale was not made in a commercially reasonable manner.
 895 The warehouse sells in a commercially reasonable manner if the
 896 warehouse ~~If the warehouseman either~~ sells the goods in the
 897 usual manner in any recognized market therefor, ~~or if he or she~~
 898 sells at the price current in that ~~such~~ market at the time of
 899 the ~~his or her~~ sale, or ~~if he or she has~~ otherwise sells ~~sold~~ in
 900 conformity with commercially reasonable practices among dealers
 901 in the type of goods sold, ~~he or she has sold in a commercially~~
 902 ~~reasonable manner~~. A sale of more goods than apparently
 903 necessary to be offered to ensure satisfaction of the obligation
 904 is not commercially reasonable except in cases covered by the
 905 preceding sentence.

906 (2) A warehouse may enforce its ~~warehouseman's~~ lien on
 907 goods, other than goods stored by a merchant in the course of
 908 its ~~his or her~~ business, only if the following requirements are
 909 satisfied ~~may be enforced only as follows:~~

910 (a) All persons known to claim an interest in the goods
 911 shall ~~must~~ be notified.

912 ~~(b) The notification must be delivered in person or sent~~
 913 ~~by registered or certified letter to the last known address of~~
 914 ~~any person to be notified.~~

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

922 ~~(c)(d)~~ The sale shall ~~must~~ conform to the terms of the
 923 notification.

924 ~~(d)(e)~~ The sale shall ~~must~~ be held at the nearest suitable
 925 place to ~~that~~ where the goods are held or stored.

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

938 (3) Before any sale pursuant to this section any person
 939 claiming a right in the goods may pay the amount necessary to
 940 satisfy the lien and the reasonable expenses incurred in
 941 complying with ~~under~~ this section. In that event, the goods may
 942 ~~must~~ not be sold, but shall ~~must~~ be retained by the warehouse
 943 ~~warehouseman~~ subject to the terms of the receipt and this
 944 chapter.

945 (4) A warehouse ~~The warehouseman~~ may buy at any public
 946 sale held pursuant to this section.

947 (5) A purchaser in good faith of goods sold to enforce a
 948 warehouse's ~~warehouseman's~~ lien takes the goods free of any
 949 rights of persons against which ~~whom~~ the lien was valid, despite

950 the warehouse's noncompliance ~~by the warehouseman with the~~
 951 ~~requirements of~~ this section.

952 (6) A warehouse ~~The warehouseman~~ may satisfy its ~~his or~~
 953 ~~her~~ lien from the proceeds of any sale pursuant to this section
 954 but shall ~~must~~ hold the balance, if any, for delivery on demand
 955 to any person to which the warehouse ~~whom he or she~~ would have
 956 been bound to deliver the goods.

957 (7) The rights provided by this section shall be in
 958 addition to all other rights allowed by law to a creditor
 959 against a ~~his or her~~ debtor.

960 (8) If ~~Where~~ a lien is on goods stored by a merchant in
 961 the course of its ~~his or her~~ business, the lien may be enforced
 962 in accordance with ~~either~~ subsection (1) or subsection (2).

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

967 Section 31. Section 677.301, Florida Statutes, is amended
 968 to read:

969 677.301 Liability for nonreceipt or misdescription; "said
 970 to contain"; "shipper's weight, load, and count"; improper
 971 handling.—

972 (1) A consignee of a nonnegotiable bill of lading which
 973 ~~who~~ has given value in good faith, or a holder to which ~~whom~~ a
 974 negotiable bill has been duly negotiated, relying in either case
 975 upon the description ~~therein~~ of the goods in the bill, or upon
 976 the date ~~therein~~ shown in the bill, may recover from the issuer
 977 damages caused by the misdating of the bill or the nonreceipt or

978 misdescription of the goods, except to the extent that the bill
 979 ~~document~~ indicates that the issuer does not know whether any
 980 part or all of the goods in fact were received or conform to the
 981 description, such as in the case in which ~~where~~ the description
 982 is in terms of marks or labels or kind, quantity, or condition
 983 or the receipt or description is qualified by "contents or
 984 condition of contents of packages unknown," "said to contain,"
 985 "shipper's weight, load, and count" or words of similar import
 986 ~~the like~~, if that such indication is ~~be~~ true.

987 (2) If ~~When~~ goods are loaded by the ~~an~~ issuer of a bill of
 988 lading: who is a common carrier,

989 (a) The issuer shall ~~must~~ count the packages of goods if
 990 shipped in packages ~~package freight~~ and ascertain the kind and
 991 quantity if shipped in bulk; and freight.

992 (b) Words ~~In~~ such as ~~cases~~ "shipper's weight, load, and
 993 count" or ~~other~~ words of similar import indicating that the
 994 description was made by the shipper are ineffective except as to
 995 goods freight concealed in ~~by~~ packages.

996 (3) If ~~When~~ bulk goods are freight ~~is~~ loaded by a shipper
 997 that ~~who~~ makes available to the issuer of a bill of lading
 998 adequate facilities for weighing those goods, the ~~such freight,~~
 999 an issuer shall ~~who is a common carrier~~ ~~must~~ ascertain the kind
 1000 and quantity within a reasonable time after receiving the
 1001 shipper's written request of the shipper to do so. In that case
 1002 ~~such cases~~ "shipper's weight, load, and count" or ~~other~~ words of
 1003 similar import ~~like purport~~ are ineffective.

1004 (4) The issuer of a bill of lading, ~~may~~ by including
 1005 inserting in the bill the words "shipper's weight, load, and

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1006 count" or ~~other~~ words of similar import, may ~~like purport~~
 1007 indicate that the goods were loaded by the shipper,~~†~~ and if that
 1008 ~~such~~ statement is ~~be~~ true, the issuer is ~~shall~~ not ~~be~~ liable for
 1009 damages caused by the improper loading. However, ~~But their~~
 1010 omission of such words does not imply liability for ~~such~~ damages
 1011 caused by improper loading.

1012 (5) A ~~The~~ shipper guarantees ~~shall be deemed to have~~
 1013 ~~guaranteed~~ to an ~~the~~ issuer the accuracy at the time of shipment
 1014 of the description, marks, labels, number, kind, quantity,
 1015 condition and weight, as furnished by the shipper, ~~him or her~~,
 1016 and the shipper shall indemnify the issuer against damage caused
 1017 by inaccuracies in those ~~such~~ particulars. This ~~The~~ right of ~~the~~
 1018 ~~issuer to such~~ indemnity does not ~~shall in no way~~ limit the
 1019 issuer's ~~his or her~~ responsibility or ~~and~~ liability under the
 1020 contract of carriage to any person other than the shipper.

1021 Section 32. Section 677.302, Florida Statutes, is amended
 1022 to read:

1023 677.302 Through bills of lading and similar documents of
 1024 title.-

1025 (1) The issuer of a through bill of lading, or other
 1026 document of title embodying an undertaking to be performed in
 1027 part by a person ~~persons~~ acting as its agent ~~agents~~ or by a
 1028 performing carrier, ~~connecting carriers~~ is liable to any person
 1029 ~~anyone~~ entitled to recover on the bill or other document for any
 1030 breach by the ~~such~~ other person ~~persons~~ or the performing ~~by a~~
 1031 ~~connecting~~ carrier of its obligation under the bill or other
 1032 document. However, ~~but~~ to the extent that the bill or other
 1033 document covers an undertaking to be performed overseas or in

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1034 territory not contiguous to the continental United States or an
 1035 undertaking including matters other than transportation, this
 1036 liability for breach by the other person or the performing
 1037 carrier may be varied by agreement of the parties.

1038 (2) If ~~Where~~ goods covered by a through bill of lading or
 1039 other document of title embodying an undertaking to be performed
 1040 in part by a person ~~persons~~ other than the issuer are received
 1041 by that ~~any such~~ person, the person ~~he or she~~ is subject, with
 1042 respect to its ~~his or her~~ own performance while the goods are in
 1043 its ~~his or her~~ possession, to the obligation of the issuer. The
 1044 person's ~~His or her~~ obligation is discharged by delivery of the
 1045 goods to another ~~such~~ person pursuant to the bill or other
 1046 document, and does not include liability for breach by any other
 1047 person ~~such persons~~ or by the issuer.

1048 (3) The issuer of a ~~such~~ through bill of lading or other
 1049 document of title described in subsection (1) ~~is~~ ~~shall be~~
 1050 entitled to recover from the performing ~~connecting~~ carrier, or
 1051 ~~such~~ other person in possession of the goods when the breach of
 1052 the obligation under the bill or other document occurred: ~~r~~

1053 (a) The amount it may be required to pay to any person
 1054 ~~anyone~~ entitled to recover on the bill or other document for the
 1055 breach therefor, as may be evidenced by any receipt, judgment,
 1056 or transcript of judgment; ~~thereof~~, and

1057 (b) The amount of any expense reasonably incurred by the
 1058 insurer ~~it~~ in defending any action commenced ~~brought~~ by any
 1059 person ~~anyone~~ entitled to recover on the bill or other document
 1060 for the breach therefor.

1061 Section 33. Section 677.303, Florida Statutes, is amended

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1062 to read:

1063 677.303 Diversion; reconsignment; change of instructions.—

1064 (1) Unless the bill of lading otherwise provides, a the
 1065 carrier may deliver the goods to a person or destination other
 1066 than that stated in the bill or may otherwise dispose of the
 1067 goods, without liability for misdelivery, on instructions from:

1068 (a) The holder of a negotiable bill; ~~or~~

1069 (b) The consignor on a nonnegotiable bill, even if the
 1070 consignee has given notwithstanding contrary instructions ~~from~~
 1071 ~~the consignee; or~~

1072 (c) The consignee on a nonnegotiable bill in the absence
 1073 of contrary instructions from the consignor, if the goods have
 1074 arrived at the billed destination or if the consignee is in
 1075 possession of the tangible bill or in control of the electronic
 1076 bill; or

1077 (d) The consignee on a nonnegotiable bill, if the
 1078 consignee ~~he or she~~ is entitled as against the consignor to
 1079 dispose of the goods ~~them~~.

1080 (2) Unless ~~such~~ instructions described in subsection (1)
 1081 are included in ~~noted on~~ a negotiable bill of lading, a person
 1082 to which ~~whom~~ the bill is duly negotiated may ~~can~~ hold the
 1083 bailee according to the original terms.

1084 Section 34. Section 677.304, Florida Statutes, is amended
 1085 to read:

1086 677.304 Tangible bills of lading in a set.—

1087 (1) Except as ~~where~~ customary in international ~~overseas~~
 1088 transportation, a tangible bill of lading may ~~must~~ not be issued
 1089 in a set of parts. The issuer is liable for damages caused by

1090 violation of this subsection.

1091 (2) If ~~Where~~ a tangible bill of lading is lawfully issued
 1092 ~~drawn~~ in a set of parts, each of which contains an
 1093 identification code ~~is numbered~~ and is expressed to be valid
 1094 only if the goods have not been delivered against any other
 1095 part, the whole of the parts constitutes ~~constitute~~ one bill.

1096 (3) If ~~Where~~ a tangible negotiable bill of lading is
 1097 lawfully issued in a set of parts and different parts are
 1098 negotiated to different persons, the title of the holder to
 1099 which ~~whom~~ the first due negotiation is made prevails as to both
 1100 the document of title and the goods even if ~~though~~ any later
 1101 holder may have received the goods from the carrier in good
 1102 faith and discharged the carrier's obligation by surrendering
 1103 its ~~surrender of his or her~~ part.

1104 (4) A ~~Any~~ person that ~~who~~ negotiates or transfers a single
 1105 part of a tangible bill of lading issued ~~drawn~~ in a set is
 1106 liable to holders of that part as if it were the whole set.

1107 (5) The bailee shall ~~is obliged to~~ deliver in accordance
 1108 with part IV of this chapter against the first presented part of
 1109 a tangible bill of lading lawfully drawn in a set. ~~Such~~ Delivery
 1110 in this manner discharges the bailee's obligation on the whole
 1111 bill.

1112 Section 35. Section 677.305, Florida Statutes, is amended
 1113 to read:

1114 677.305 Destination bills.—

1115 (1) Instead of issuing a bill of lading to the consignor
 1116 at the place of shipment, a carrier, ~~may~~ may at the request of the
 1117 consignor, may procure the bill to be issued at destination or

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1118 at any other place designated in the request.

1119 (2) Upon request of any person ~~anyone~~ entitled as against
 1120 the carrier to control the goods while in transit and on
 1121 surrender of possession or control of any outstanding bill of
 1122 lading or other receipt covering such goods, the issuer, subject
 1123 to s. 677.105, may procure a substitute bill to be issued at any
 1124 place designated in the request.

1125 Section 36. Section 677.307, Florida Statutes, is amended
 1126 to read:

1127 677.307 Lien of carrier.—

1128 (1) A carrier has a lien on the goods covered by a bill of
 1129 lading or on the proceeds thereof in its possession for charges
 1130 after subsequent to the date of the carrier's ~~its~~ receipt of the
 1131 goods for storage or transportation, including demurrage and
 1132 terminal charges, ~~(including demurrage and terminal charges)~~ and
 1133 for expenses necessary for preservation of the goods incident to
 1134 their transportation or reasonably incurred in their sale
 1135 pursuant to law. However, ~~But~~ against a purchaser for value of a
 1136 negotiable bill of lading, a carrier's lien is limited to
 1137 charges stated in the bill or the applicable tariffs, or, if no
 1138 charges are stated, ~~then to~~ a reasonable charge.

1139 (2) A lien for charges and expenses under subsection (1)
 1140 on goods that ~~which~~ the carrier was required by law to receive
 1141 for transportation is effective against the consignor or any
 1142 person entitled to the goods unless the carrier had notice that
 1143 the consignor lacked authority to subject the goods to those
 1144 ~~such~~ charges and expenses. Any other lien under subsection (1)
 1145 is effective against the consignor and any person that ~~who~~

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1146 | permitted the bailor to have control or possession of the goods
 1147 | unless the carrier had notice that the bailor lacked ~~such~~
 1148 | authority.

1149 | (3) A carrier loses its ~~his or her~~ lien on any goods that
 1150 | it ~~which the carrier~~ voluntarily delivers or ~~which he or she~~
 1151 | unjustifiably refuses to deliver.

1152 | Section 37. Section 677.308, Florida Statutes, is amended
 1153 | to read:

1154 | 677.308 Enforcement of carrier's lien.—

1155 | (1) A carrier's lien on goods may be enforced by public or
 1156 | private sale of the goods, in bulk ~~block~~ or in packages ~~parcels~~,
 1157 | at any time or place and on any terms that ~~which~~ are
 1158 | commercially reasonable, after notifying all persons known to
 1159 | claim an interest in the goods. The ~~Such~~ notification shall ~~must~~
 1160 | include a statement of the amount due, the nature of the
 1161 | proposed sale, and the time and place of any public sale. The
 1162 | fact that a better price could have been obtained by a sale at a
 1163 | different time or in a method ~~different method~~ from that
 1164 | selected by the carrier is not of itself sufficient to establish
 1165 | that the sale was not made in a commercially reasonable manner.
 1166 | ~~If~~ The carrier ~~either~~ sells ~~the~~ goods in a commercially
 1167 | reasonable ~~the usual~~ manner ~~in any recognized market therefor~~ ~~or~~
 1168 | if the carrier ~~he or she~~ sells the goods in the usual manner in
 1169 | any recognized market therefor, sells at the price current in
 1170 | that ~~such~~ market at the time of the ~~his or her~~ sale, ~~or if the~~
 1171 | ~~carrier has~~ otherwise sells ~~sold~~ in conformity with commercially
 1172 | reasonable practices among dealers in the type of goods sold ~~he~~
 1173 | ~~or she has sold in a commercially reasonable manner.~~ A sale of

1174 more goods than apparently necessary to be offered to ensure
 1175 satisfaction of the obligation is not commercially reasonable,
 1176 except in cases covered by the preceding sentence.

1177 (2) Before any sale pursuant to this section, any person
 1178 claiming a right in the goods may pay the amount necessary to
 1179 satisfy the lien and the reasonable expenses incurred in
 1180 complying with ~~under~~ this section. In that event, the goods may
 1181 ~~must~~ not be sold, but shall ~~must~~ be retained by the carrier,
 1182 subject to the terms of the bill of lading and this chapter.

1183 (3) The carrier may buy at any public sale pursuant to
 1184 this section.

1185 (4) A purchaser in good faith of goods sold to enforce a
 1186 carrier's lien takes the goods free of any rights of persons
 1187 against which ~~whom~~ the lien was valid, despite the carrier's
 1188 noncompliance ~~by the carrier~~ with ~~the requirements of~~ this
 1189 section.

1190 (5) A ~~The~~ carrier may satisfy its ~~his or her~~ lien from the
 1191 proceeds of any sale pursuant to this section but shall ~~must~~
 1192 hold the balance, if any, for delivery on demand to any person
 1193 to which ~~whom~~ the carrier would have been bound to deliver the
 1194 goods.

1195 (6) The rights provided by this section are ~~shall be~~ in
 1196 addition to all other rights allowed by law to a creditor
 1197 against a ~~his or her~~ debtor.

1198 (7) A carrier's lien may be enforced pursuant to ~~in~~
 1199 ~~accordance with~~ either subsection (1) or the procedure set forth
 1200 in s. 677.210(2).

1201 (8) A ~~The~~ carrier is liable for damages caused by failure

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1202 to comply with the requirements for sale under this section and,
 1203 in case of willful violation, is liable for conversion.

1204 Section 38. Section 677.309, Florida Statutes, is amended
 1205 to read:

1206 677.309 Duty of care; contractual limitation of carrier's
 1207 liability.—

1208 (1) A carrier that ~~who~~ issues a bill of lading, whether
 1209 negotiable or nonnegotiable, shall ~~must~~ exercise the degree of
 1210 care in relation to the goods which a reasonably careful person
 1211 would exercise under similar ~~like~~ circumstances. This subsection
 1212 does not affect ~~repeal or change~~ any statute, regulation, law or
 1213 rule of law that ~~which~~ imposes liability upon a common carrier
 1214 for damages not caused by its negligence.

1215 (2) Damages may be limited by a term in the bill of lading
 1216 or in a transportation agreement ~~provision~~ that the carrier's
 1217 liability may ~~shall~~ not exceed a value stated in the bill or
 1218 transportation agreement ~~document~~ if the carrier's rates are
 1219 dependent upon value and the consignor ~~by the carrier's tariff~~
 1220 is afforded an opportunity to declare a higher value and the
 1221 consignor ~~or a value as lawfully provided in the tariff, or~~
 1222 ~~where no tariff is filed he or she is otherwise advised of the~~
 1223 ~~such~~ opportunity. However,; ~~but no~~ such a limitation is not
 1224 effective with respect to the carrier's liability for conversion
 1225 to its own use.

1226 (3) Reasonable provisions as to the time and manner of
 1227 presenting claims and commencing ~~instituting~~ actions based on
 1228 the shipment may be included in the bill of lading or a
 1229 transportation agreement ~~tariff~~.

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1230 Section 39. Section 677.401, Florida Statutes, is amended
 1231 to read:

1232 677.401 Irregularities in issue of receipt or bill or
 1233 conduct of issuer.—The obligations imposed by this chapter on an
 1234 issuer apply to a document of title even if ~~regardless of the~~
 1235 ~~fact that:~~

1236 (1) The document does ~~may~~ not comply with the requirements
 1237 of this chapter or of any other statute, rule of law, law or
 1238 regulation regarding its issuance ~~issue~~, form, or content; ~~or~~

1239 (2) The issuer ~~may have~~ violated laws regulating the
 1240 conduct of its ~~his or her~~ business; ~~or~~

1241 (3) The goods covered by the document were owned by the
 1242 bailee when ~~at the time~~ the document was issued; or

1243 (4) The person issuing the document is not a warehouse but
 1244 the document does not come within the definition of warehouseman
 1245 ~~if it~~ purports to be a warehouse receipt.

1246 Section 40. Section 677.402, Florida Statutes, is amended
 1247 to read:

1248 677.402 Duplicate document of title ~~receipt or bill~~;
 1249 overissue. ~~Neither~~ A duplicate or ~~nor~~ any other document of
 1250 title purporting to cover goods already represented by an
 1251 outstanding document of the same issuer does not confer ~~confers~~
 1252 any right in the goods, except as provided in the case of
 1253 tangible bills of lading in a set of parts, overissue of
 1254 documents for fungible goods, and substitutes for lost, stolen
 1255 or destroyed documents, or substitute documents issued pursuant
 1256 to s. 677.105. ~~But~~ The issuer is liable for damages caused by
 1257 its ~~his or her~~ overissue or failure to identify a duplicate

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1258 | document ~~as such~~ by a conspicuous notation ~~on its face~~.

1259 | Section 41. Section 677.403, Florida Statutes, is amended
1260 | to read:

1261 | 677.403 Obligation of bailee ~~warehouseman or carrier~~ to
1262 | deliver; excuse.—

1263 | (1) A ~~The~~ bailee shall ~~must~~ deliver the goods to a person
1264 | entitled under a ~~the~~ document of title if the person ~~who~~
1265 | complies with subsections (2) and (3), unless and to the extent
1266 | that the bailee establishes any of the following:

1267 | (a) Delivery of the goods to a person whose receipt was
1268 | rightful as against the claimant;

1269 | (b) Damage to or delay, loss or destruction of the goods
1270 | for which the bailee is not liable, but the burden of
1271 | establishing negligence in such cases when value of such damage,
1272 | delay, loss, or destruction exceeds \$10,000 is on the person
1273 | entitled under the document;—

1274 | (c) Previous sale or other disposition of the goods in
1275 | lawful enforcement of a lien or on a warehouse's ~~warehouseman's~~
1276 | lawful termination of storage;

1277 | (d) The exercise by a seller of its ~~his or her~~ right to
1278 | stop delivery pursuant to s. 672.705 or by a lessor of its right
1279 | to stop delivery pursuant to s. 680.526 ~~the provisions of the~~
1280 | ~~chapter on sales (s. 672.705);~~

1281 | (e) A diversion, reconsignment, or other disposition
1282 | pursuant to s. 677.303 ~~the provisions of this chapter (s.~~
1283 | ~~677.303) or tariff regulating such right;~~

1284 | (f) Release, satisfaction, or any other ~~fact affording a~~
1285 | personal defense against the claimant; or

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1286 (g) Any other lawful excuse.
 1287 (2) A person claiming goods covered by a document of title
 1288 shall ~~must~~ satisfy the bailee's lien if where the bailee so
 1289 requests or if where the bailee is prohibited by law from
 1290 delivering the goods until the charges are paid.

1291 (3) Unless a the person claiming the goods is a person one
 1292 against which whom the document of title does not confer a
 1293 ~~confers no~~ right under s. 677.503(1):r

1294 (a) The person claiming under a document shall he or she
 1295 ~~must~~ surrender possession or control of any outstanding
 1296 negotiable document covering the goods for cancellation or
 1297 indication of partial deliveries; and

1298 (b) ~~for cancellation or notation of partial deliveries any~~
 1299 ~~outstanding negotiable document covering the goods, and~~ The
 1300 bailee shall must cancel the document or conspicuously indicate
 1301 in the document note the partial delivery ~~thereon~~ or the bailee
 1302 is be liable to any person to which whom the document is duly
 1303 negotiated.

1304 (4) ~~"Person entitled under the document" means holder in~~
 1305 ~~the case of a negotiable document, or the person to whom~~
 1306 ~~delivery is to be made by the terms of or pursuant to written~~
 1307 ~~instructions under a nonnegotiable document.~~

1308 Section 42. Section 677.404, Florida Statutes, is amended
 1309 to read:

1310 677.404 No liability for good faith delivery pursuant to
 1311 document of title receipt or bill.-A bailee that who in good
 1312 faith ~~including observance of reasonable commercial standards~~
 1313 has received goods and delivered or otherwise disposed of the

1314 goods ~~them~~ according to the terms of the document of title or
 1315 pursuant to this chapter is not liable for the goods ~~therefor~~.
 1316 ~~This rule applies~~ even if:

1317 (1) ~~though~~ The person from which the bailee ~~whom he or she~~
 1318 received the goods did not have ~~had no~~ authority to procure the
 1319 document or to dispose of the goods; or

1320 (2) The ~~and even though the~~ person to which the bailee
 1321 ~~whom he or she~~ delivered the goods did not have ~~had no~~ authority
 1322 to receive the goods ~~them~~.

1323 Section 43. Section 677.501, Florida Statutes, is amended
 1324 to read:

1325 677.501 Form of negotiation and requirements of "due
 1326 negotiation."

1327 (1) The following rules apply to a negotiable tangible
 1328 document of title:

1329 (a) If the document's original terms run ~~running~~ to the
 1330 order of a named person, the document is negotiated by the named
 1331 person's indorsement and delivery. After the named person's ~~his~~
 1332 ~~or her~~ indorsement in blank or to bearer, any person may ~~can~~
 1333 negotiate the document ~~it~~ by delivery alone.

1334 (b) If the document's original
 1335 ~~(2) (a) A negotiable document of title is also negotiated~~
 1336 ~~by delivery alone when by its original terms~~ run ~~it runs~~ to
 1337 bearer, it is negotiated by delivery alone.

1338 (c) If the document's original terms run
 1339 ~~(b) When a document running~~ to the order of a named person
 1340 and it is delivered to the named person, ~~him or her~~ the effect
 1341 is the same as if the document had been negotiated.

1342 (d)-(3) Negotiation of the ~~a negotiable~~ document ~~of title~~
 1343 after it has been indorsed to a named ~~specified~~ person requires
 1344 indorsement by the named person and ~~special indorsee as well as~~
 1345 delivery.

1346 (e)-(4) A ~~negotiable~~ document ~~of title~~ is duly negotiated
 1347 if "duly negotiated" ~~when~~ it is negotiated in the manner stated
 1348 in this subsection ~~section~~ to a holder that ~~who~~ purchases it in
 1349 good faith, without notice of any defense against or claim to it
 1350 on the part of any person, and for value, unless it is
 1351 established that the negotiation is not in the regular course of
 1352 business or financing or involves receiving the document in
 1353 settlement or payment of a money obligation.

1354 (2) The following rules apply to a negotiable electronic
 1355 document of title:

1356 (a) If the document's original terms run to the order of a
 1357 named person or to bearer, the document is negotiated by
 1358 delivery of the document to another person. Indorsement by the
 1359 named person is not required to negotiate the document.

1360 (b) If the document's original terms run to the order of a
 1361 named person and the named person has control of the document,
 1362 the effect is the same as if the document had been negotiated.

1363 (c) A document is duly negotiated if it is negotiated in
 1364 the manner stated in this subsection to a holder that purchases
 1365 it in good faith, without notice of any defense against or claim
 1366 to it on the part of any person, and for value, unless it is
 1367 established that the negotiation is not in the regular course of
 1368 business or financing or involves taking delivery of the
 1369 document in settlement or payment of a monetary obligation.

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1370 ~~(3)-(5)~~ Indorsement of a nonnegotiable document of title
 1371 neither makes it negotiable nor adds to the transferee's rights.

1372 ~~(4)-(6)~~ The naming in a negotiable bill of lading of a
 1373 person to be notified of the arrival of the goods does not limit
 1374 the negotiability of the bill or ~~not~~ constitute notice to a
 1375 purchaser of the bill thereof of any interest of that such
 1376 person in the goods.

1377 Section 44. Section 677.502, Florida Statutes, is amended
 1378 to read:

1379 677.502 Rights acquired by due negotiation.--

1380 (1) Subject to ss. ~~the following section and to the~~
 1381 ~~provisions of s. 677.205 and 677.503 on fungible goods~~, a holder
 1382 to which ~~whom~~ a negotiable document of title has been duly
 1383 negotiated acquires thereby:

- 1384 (a) Title to the document;
- 1385 (b) Title to the goods;
- 1386 (c) All rights accruing under the law of agency or
 1387 estoppel, including rights to goods delivered to the bailee
 1388 after the document was issued; and
- 1389 (d) The direct obligation of the issuer to hold or deliver
 1390 the goods according to the terms of the document free of any
 1391 defense or claim by the issuer ~~him or her~~ except those arising
 1392 under the terms of the document or under this chapter, but ~~in~~
 1393 the case of a delivery order, the bailee's obligation accrues
 1394 only upon the bailee's acceptance of the delivery order and the
 1395 obligation acquired by the holder is that the issuer and any
 1396 indorser will procure the acceptance of the bailee.

1397 (2) Subject to the following section, title and rights so

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1398 | acquired by due negotiation are not defeated by any stoppage of
 1399 | the goods represented by the document of title or by surrender
 1400 | of ~~the such~~ goods by the bailee, and are not impaired even if:

1401 | (a) ~~though~~ The due negotiation or any prior due
 1402 | negotiation constituted a breach of duty; ~~or even though~~

1403 | (b) Any person has been deprived of possession of a
 1404 | negotiable tangible ~~the~~ document or control of a negotiable
 1405 | electronic document by misrepresentation, fraud, accident,
 1406 | mistake, duress, loss, theft, or conversion; ~~or even though~~

1407 | (c) A previous sale or other transfer of the goods or
 1408 | document has been made to a third person.

1409 | Section 45. Section 677.503, Florida Statutes, is amended
 1410 | to read:

1411 | 677.503 Document of title to goods defeated in certain
 1412 | cases.—

1413 | (1) A document of title confers no right in goods against
 1414 | a person that ~~who~~ before issuance of the document had a legal
 1415 | interest or a perfected security interest in the goods ~~them~~ and
 1416 | that did not ~~who neither:~~

1417 | (a) Deliver or entrust the goods ~~Delivered or entrusted~~
 1418 | ~~them~~ or any document of title covering the goods ~~them~~ to the
 1419 | bailor or the bailor's nominee with:

1420 | 1. Actual or apparent authority to ship, store, or sell;
 1421 | ~~or with~~

1422 | 2. Power to obtain delivery under s. 677.403; ~~this chapter~~
 1423 | ~~(s. 677.403)~~ or with

1424 | 3. Power of disposition under s. 672.403, s. 680.304(2),
 1425 | s. 680.305(2), s. 679.320, or s. 679.321(3) ~~this code (ss.~~

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1426 ~~672.403 and 679.320~~ or other statute or rule of law; or her
 1427 (b)-(b) Acquiesce ~~Acquiesced~~ in the procurement by the
 1428 bailor or its ~~the bailor's~~ nominee of any document ~~of title~~.

1429 (2) Title to goods based upon an unaccepted delivery order
 1430 is subject to the rights of any person ~~anyone~~ to which ~~whom~~ a
 1431 negotiable warehouse receipt or bill of lading covering the
 1432 goods has been duly negotiated. That ~~Such a~~ title may be
 1433 defeated under the next section to the same extent as the rights
 1434 of the issuer or a transferee from the issuer.

1435 (3) Title to goods based upon a bill of lading issued to a
 1436 freight forwarder is subject to the rights of any person ~~anyone~~
 1437 to which ~~whom~~ a bill issued by the freight forwarder is duly
 1438 negotiated. However, ~~but~~ delivery by the carrier in accordance
 1439 with part IV of this chapter pursuant to its own bill of lading
 1440 discharges the carrier's obligation to deliver.

1441 Section 46. Section 677.504, Florida Statutes, is amended
 1442 to read:

1443 677.504 Rights acquired in the absence of due negotiation;
 1444 effect of diversion; ~~seller's~~ stoppage of delivery.-

1445 (1) A transferee of a document of title, whether
 1446 negotiable or nonnegotiable, to which ~~whom~~ the document has been
 1447 delivered but not duly negotiated, acquires the title and rights
 1448 that its ~~which his or her~~ transferor had or had actual authority
 1449 to convey.

1450 (2) In the case of a transfer of a nonnegotiable document
 1451 of title, until but not after the bailee receives notice
 1452 ~~notification~~ of the transfer, the rights of the transferee may
 1453 be defeated:

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1454 (a) By those creditors of the transferor which ~~who~~ could
 1455 treat the transfer sale as void under s. 672.402 or s. 680.308;
 1456 ~~or~~

1457 (b) By a buyer from the transferor in ordinary course of
 1458 business if the bailee has delivered the goods to the buyer or
 1459 received notification of the buyer's ~~his or her~~ rights; ~~or~~

1460 (c) By a lessee from the transferor in ordinary course of
 1461 business if the bailee has delivered the goods to the lessee or
 1462 received notification of the lessee's rights; or

1463 (d)-(e) As against the bailee, by good-faith ~~good-faith~~
 1464 dealings of the bailee with the transferor.

1465 (3) A diversion or other change of shipping instructions
 1466 by the consignor in a nonnegotiable bill of lading which causes
 1467 the bailee not to deliver to the consignee defeats the
 1468 consignee's title to the goods if the goods ~~they~~ have been
 1469 delivered to a buyer or a lessee in ordinary course of business
 1470 and, in any event, defeats the consignee's rights against the
 1471 bailee.

1472 (4) Delivery of the goods pursuant to a nonnegotiable
 1473 document of title may be stopped by a seller under s. 672.705 or
 1474 by a lessor under s. 680.526, ~~and~~ subject to the requirements
 1475 ~~requirement~~ of due notification ~~there provided~~. A bailee that
 1476 honors ~~honoring~~ the seller's or lessor's instructions is
 1477 entitled to be indemnified by the seller or lessor against any
 1478 resulting loss or expense.

1479 Section 47. Section 677.505, Florida Statutes, is amended
 1480 to read:

1481 677.505 Indorser not a guarantor for other parties.—The

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1482 indorsement of a tangible document of title issued by a bailee
 1483 does not make the indorser liable for any default by the bailee
 1484 or ~~by~~ previous indorsers.

1485 Section 48. Section 677.506, Florida Statutes, is amended
 1486 to read:

1487 677.506 Delivery without indorsement; right to compel
 1488 indorsement.—The transferee of a negotiable tangible document of
 1489 title has a specifically enforceable right to have its ~~his or~~
 1490 ~~her~~ transferor supply any necessary indorsement but the transfer
 1491 becomes a negotiation only as of the time the indorsement is
 1492 supplied.

1493 Section 49. Section 677.507, Florida Statutes, is amended
 1494 to read:

1495 677.507 Warranties on negotiation or delivery of document
 1496 of title ~~transfer of receipt or bill.~~—If ~~Where~~ a person
 1497 negotiates or delivers ~~transfers~~ a document of title for value,
 1498 otherwise than as a mere intermediary under the next following
 1499 section, ~~then~~ unless otherwise agreed, the transferor, in
 1500 addition to any warranty made in selling or leasing the goods,
 1501 ~~person~~ warrants to its ~~his or her~~ immediate purchaser only that
 1502 ~~in addition to any warranty made in selling the goods:~~

- 1503 (1) ~~That~~ The document is genuine; ~~and~~
- 1504 (2) The transferor does not have ~~That he or she has no~~
 1505 knowledge of any fact that ~~which~~ would impair the document's ~~its~~
 1506 validity or worth; and
- 1507 (3) The ~~That his or her~~ negotiation or delivery ~~transfer~~
 1508 is rightful and fully effective with respect to the title to the
 1509 document and the goods it represents.

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1510 Section 50. Section 677.508, Florida Statutes, is amended
 1511 to read:

1512 677.508 Warranties of collecting bank as to documents of
 1513 title.—A collecting bank or other intermediary known to be
 1514 entrusted with documents of title on behalf of another or with
 1515 collection of a draft or other claim against delivery of
 1516 documents warrants by the ~~such~~ delivery of the documents only
 1517 its own good faith and authority. ~~This rule applies even if~~
 1518 ~~though~~ the collecting bank or other intermediary has purchased
 1519 or made advances against the claim or draft to be collected.

1520 Section 51. Section 677.509, Florida Statutes, is amended
 1521 to read:

1522 677.509 ~~Receipt or bill; when~~ Adequate compliance with
 1523 commercial contract. ~~The question~~ Whether a document of title is
 1524 adequate to fulfill the obligations of a contract for sale, ~~or~~
 1525 the conditions of a letter of credit, or a contract for lease is
 1526 determined ~~governed~~ by chapter 672, chapter 675, or chapter 680
 1527 ~~the chapters on sales (chapter 672) and on letters of credit~~
 1528 ~~(chapter 675)~~.

1529 Section 52. Section 677.601, Florida Statutes, is amended
 1530 to read:

1531 677.601 Lost, stolen, or destroyed ~~and missing~~ documents
 1532 of title.—

1533 (1) If a document of title ~~has been~~ lost, stolen, or
 1534 destroyed, a court may order delivery of the goods or issuance
 1535 of a substitute document and the bailee may without liability to
 1536 any person comply with the ~~such~~ order. If the document was
 1537 negotiable, a court may not order delivery of the goods or the

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1538 issuance of a substitute document without the claimant's posting
 1539 ~~claimant must post security unless it finds that approved by the~~
 1540 ~~court to indemnify~~ any person that ~~who~~ may suffer loss as a
 1541 result of nonsurrender of possession or control of the document
 1542 is adequately protected against the loss. If the document was
 1543 nonnegotiable ~~not negotiable,~~ the court ~~such security~~ may
 1544 require security ~~be required at the discretion of the court.~~ The
 1545 court may also ~~in its discretion~~ order payment of the bailee's
 1546 reasonable costs and attorney's counsel fees in any action under
 1547 this subsection.

1548 (2) A bailee that, ~~who~~ without a court order, delivers
 1549 goods to a person claiming under a missing negotiable document
 1550 of title is liable to any person injured thereby, ~~and~~ If the
 1551 delivery is not in good faith, the bailee is ~~becomes~~ liable for
 1552 conversion. Delivery in good faith is not conversion if ~~made in~~
 1553 ~~accordance with a filed classification or tariff or, where no~~
 1554 ~~classification or tariff is filed,~~ if the claimant posts
 1555 security with the bailee in an amount at least double the value
 1556 of the goods at the time of posting to indemnify any person
 1557 injured by the delivery which ~~who~~ files a notice of claim within
 1558 1 year after the delivery.

1559 Section 53. Section 677.602, Florida Statutes, is amended
 1560 to read:

1561 677.602 Judicial process against ~~Attachment of~~ goods
 1562 covered by a negotiable document of title. ~~Unless a~~ ~~Except where~~
 1563 ~~the document~~ of title was originally issued upon delivery of the
 1564 goods by a person that did not have ~~who had no~~ power to dispose
 1565 of them, a ~~no~~ lien does not attach ~~attaches~~ by virtue of any

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1566 judicial process to goods in the possession of a bailee for
 1567 which a negotiable document of title is outstanding unless
 1568 possession or control of the document is ~~be~~ first surrendered to
 1569 the bailee or the document's ~~its~~ negotiation is enjoined,~~7~~ and
 1570 The bailee may ~~shall~~ not be compelled to deliver the goods
 1571 pursuant to process until possession or control of the document
 1572 is surrendered to the bailee or to ~~him or her or impounded by~~
 1573 the court. A purchaser of ~~One who purchases~~ the document for
 1574 value without notice of the process or injunction takes free of
 1575 the lien imposed by judicial process.

1576 Section 54. Section 677.603, Florida Statutes, is amended
 1577 to read:

1578 677.603 Conflicting claims; interpleader.—If more than one
 1579 person claims title to or possession of the goods, the bailee is
 1580 excused from delivery until the bailee ~~he or she~~ has had a
 1581 reasonable time to ascertain the validity of the adverse claims
 1582 or to commence ~~bring~~ an action for ~~to compel all claimants to~~
 1583 ~~interplead and may compel such~~ interpleader. The bailee may
 1584 assert an interpleader, either in defending an action for
 1585 nondelivery of the goods,~~7~~ or by original action,~~7~~ ~~whichever is~~
 1586 ~~appropriate.~~

1587 Section 55. Subsection (7) is added to section 678.1031,
 1588 Florida Statutes, to read:

1589 678.1031 Rules for determining whether certain obligations
 1590 and interests are securities or financial assets.—

1591 (7) A document of title is not a financial asset unless s.
 1592 678.1021(1)(i)2. applies.

1593 Section 56. Subsection (2) of section 679.1021, Florida
 1594 Statutes, is amended to read:
 1595 679.1021 Definitions and index of definitions.—
 1596 (2) The following definitions in other chapters apply to
 1597 this chapter:
 1598 "Applicant" s. 675.103.
 1599 "Beneficiary" s. 675.103.
 1600 "Broker" s. 678.1021.
 1601 "Certificated security" s. 678.1021.
 1602 "Check" s. 673.1041.
 1603 "Clearing corporation" s. 678.1021.
 1604 "Contract for sale" s. 672.106.
 1605 "Control" s. 677.106.
 1606 "Customer" s. 674.104.
 1607 "Entitlement holder" s. 678.1021.
 1608 "Financial asset" s. 678.1021.
 1609 "Holder in due course" s. 673.3021.
 1610 "Issuer" (with respect to a letter of credit
 1611 or letter-of-credit right) s. 675.103.
 1612 "Issuer" (with respect to a security) s. 678.2011.
 1613 "Issuer" (with respect to documents of title) s.
 1614 677.102.
 1615 "Lease" s. 680.1031.
 1616 "Lease agreement" s. 680.1031.
 1617 "Lease contract" s. 680.1031.
 1618 "Leasehold interest" s. 680.1031.
 1619 "Lessee" s. 680.1031.
 1620 "Lessee in ordinary course of

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1621 business" s. 680.1031.
 1622 "Lessor" s. 680.1031.
 1623 "Lessor's residual interest" s. 680.1031.
 1624 "Letter of credit" s. 675.103.
 1625 "Merchant" s. 672.104.
 1626 "Negotiable instrument" s. 673.1041.
 1627 "Nominated person" s. 675.103.
 1628 "Note" s. 673.1041.
 1629 "Proceeds of a letter of credit" s. 675.114.
 1630 "Prove" s. 673.1031.
 1631 "Sale" s. 672.106.
 1632 "Securities account" s. 678.5011.
 1633 "Securities intermediary" s. 678.1021.
 1634 "Security" s. 678.1021.
 1635 "Security certificate" s. 678.1021.
 1636 "Security entitlement" s. 678.1021.
 1637 "Uncertificated security" s. 678.1021.
 1638 Section 57. Subsection (2) of section 679.2031, Florida
 1639 Statutes, is amended to read:
 1640 679.2031 Attachment and enforceability of security
 1641 interest; proceeds; supporting obligations; formal requisites.—
 1642 (2) Except as otherwise provided in subsections (3)
 1643 through (10), a security interest is enforceable against the
 1644 debtor and third parties with respect to the collateral only if:
 1645 (a) Value has been given;
 1646 (b) The debtor has rights in the collateral or the power
 1647 to transfer rights in the collateral to a secured party; and
 1648 (c) One of the following conditions is met:

1649 1. The debtor has authenticated a security agreement that
 1650 provides a description of the collateral and, if the security
 1651 interest covers timber to be cut, a description of the land
 1652 concerned;

1653 2. The collateral is not a certificated security and is in
 1654 the possession of the secured party under s. 679.3131 pursuant
 1655 to the debtor's security agreement;

1656 3. The collateral is a certificated security in registered
 1657 form and the security certificate has been delivered to the
 1658 secured party under s. 678.3011 pursuant to the debtor's
 1659 security agreement; or

1660 4. The collateral is deposit accounts, electronic chattel
 1661 paper, investment property, ~~or~~ letter-of-credit rights, or
 1662 electronic documents, and the secured party has control under s.
 1663 677.106, s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071
 1664 pursuant to the debtor's security agreement.

1665 Section 58. Subsection (3) of section 679.2071, Florida
 1666 Statutes, is amended to read:

1667 679.2071 Rights and duties of secured party having
 1668 possession or control of collateral.—

1669 (3) Except as otherwise provided in subsection (4), a
 1670 secured party having possession of collateral or control of
 1671 collateral under s. 677.106, s. 679.1041, s. 679.1051, s.
 1672 679.1061, or s. 679.1071:

1673 (a) May hold as additional security any proceeds, except
 1674 money or funds, received from the collateral;

1675 (b) Shall apply money or funds received from the
 1676 collateral to reduce the secured obligation, unless remitted to

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1677 the debtor; and
 1678 (c) May create a security interest in the collateral.
 1679 Section 59. Subsection (2) of section 679.2081, Florida
 1680 Statutes, is amended to read:
 1681 679.2081 Additional duties of secured party having control
 1682 of collateral.—
 1683 (2) Within 10 days after receiving an authenticated demand
 1684 by the debtor:
 1685 (a) A secured party having control of a deposit account
 1686 under s. 679.1041(1)(b) shall send to the bank with which the
 1687 deposit account is maintained an authenticated statement that
 1688 releases the bank from any further obligation to comply with
 1689 instructions originated by the secured party;
 1690 (b) A secured party having control of a deposit account
 1691 under s. 679.1041(1)(c) shall:
 1692 1. Pay the debtor the balance on deposit in the deposit
 1693 account; or
 1694 2. Transfer the balance on deposit into a deposit account
 1695 in the debtor's name;
 1696 (c) A secured party, other than a buyer, having control of
 1697 electronic chattel paper under s. 679.1051 shall:
 1698 1. Communicate the authoritative copy of the electronic
 1699 chattel paper to the debtor or its designated custodian;
 1700 2. If the debtor designates a custodian that is the
 1701 designated custodian with which the authoritative copy of the
 1702 electronic chattel paper is maintained for the secured party,
 1703 communicate to the custodian an authenticated record releasing
 1704 the designated custodian from any further obligation to comply

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1705 with instructions originated by the secured party and
 1706 instructing the custodian to comply with instructions originated
 1707 by the debtor; and

1708 3. Take appropriate action to enable the debtor or the
 1709 debtor's designated custodian to make copies of or revisions to
 1710 the authoritative copy which add or change an identified
 1711 assignee of the authoritative copy without the consent of the
 1712 secured party;

1713 (d) A secured party having control of investment property
 1714 under s. 678.1061(4) (b) or s. 679.1061(2) shall send to the
 1715 securities intermediary or commodity intermediary with which the
 1716 security entitlement or commodity contract is maintained an
 1717 authenticated record that releases the securities intermediary
 1718 or commodity intermediary from any further obligation to comply
 1719 with entitlement orders or directions originated by the secured
 1720 party; ~~and~~

1721 (e) A secured party having control of a letter-of-credit
 1722 right under s. 679.1071 shall send to each person having an
 1723 unfulfilled obligation to pay or deliver proceeds of the letter
 1724 of credit to the secured party an authenticated release from any
 1725 further obligation to pay or deliver proceeds of the letter of
 1726 credit to the secured party; ~~and~~

1727 (f) A secured party having control of an electronic
 1728 document shall:

1729 1. Give control of the electronic document to the debtor
 1730 or its designated custodian;

1731 2. If the debtor designates a custodian that is the
 1732 designated custodian with which the authoritative copy of the

1733 electronic document is maintained for the secured party,
 1734 communicate to the custodian an authenticated record releasing
 1735 the designated custodian from any further obligation to comply
 1736 with instructions originated by the secured party and
 1737 instructing the custodian to comply with instructions originated
 1738 by the debtor; and

1739 3. Take appropriate action to enable the debtor or its
 1740 designated custodian to make copies of or revisions to the
 1741 authenticated copy which add or change an identified assignee of
 1742 the authoritative copy without the consent of the secured party.

1743 Section 60. Subsection (3) of section 679.3011, Florida
 1744 Statutes, is amended to read:

1745 679.3011 Law governing perfection and priority of security
 1746 interests.—Except as otherwise provided in ss. 679.1091,
 1747 679.3031, 679.3041, 679.3051, and 679.3061, the following rules
 1748 determine the law governing perfection, the effect of perfection
 1749 or nonperfection, and the priority of a security interest in
 1750 collateral:

1751 (3) Except as otherwise provided in subsections (4) and
 1752 (5), while tangible negotiable documents, goods, instruments,
 1753 money, or tangible chattel paper is located in a jurisdiction,
 1754 the local law of that jurisdiction governs:

1755 (a) Perfection of a security interest in the goods by
 1756 filing a fixture filing;

1757 (b) Perfection of a security interest in timber to be cut;
 1758 and

1759 (c) The effect of perfection or nonperfection and the
 1760 priority of a nonpossessory security interest in the collateral.

1761 Section 61. Subsection (2) of section 679.3101, Florida
 1762 Statutes, is amended to read:

1763 679.3101 When filing required to perfect security interest
 1764 or agricultural lien; security interests and agricultural liens
 1765 to which filing provisions do not apply.—

1766 (2) The filing of a financing statement is not necessary
 1767 to perfect a security interest:

1768 (a) That is perfected under s. 679.3081(4), (5), (6), or
 1769 (7);

1770 (b) That is perfected under s. 679.3091 when it attaches;

1771 (c) In property subject to a statute, regulation, or
 1772 treaty described in s. 679.3111(1);

1773 (d) In goods in possession of a bailee which is perfected
 1774 under s. 679.3121(4) (a) or (b);

1775 (e) In certificated securities, documents, goods, or
 1776 instruments which is perfected without filing, control, or
 1777 possession under s. 679.3121(5), (6), or (7);

1778 (f) In collateral in the secured party's possession under
 1779 s. 679.3131;

1780 (g) In a certificated security which is perfected by
 1781 delivery of the security certificate to the secured party under
 1782 s. 679.3131;

1783 (h) In deposit accounts, electronic chattel paper,
 1784 electronic documents, investment property, or letter-of-credit
 1785 rights which is perfected by control under s. 679.3141;

1786 (i) In proceeds which is perfected under s. 679.3151; or

1787 (j) That is perfected under s. 679.3161.

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1788 Section 62. Subsection (5) of section 679.3121, Florida
 1789 Statutes, is amended to read:

1790 679.3121 Perfection of security interests in chattel
 1791 paper, deposit accounts, documents, goods covered by documents,
 1792 instruments, investment property, letter-of-credit rights, and
 1793 money; perfection by permissive filing; temporary perfection
 1794 without filing or transfer of possession.—

1795 (5) A security interest in certificated securities,
 1796 negotiable documents, or instruments is perfected without filing
 1797 or the taking of possession or control for a period of 20 days
 1798 from the time it attaches to the extent that it arises for new
 1799 value given under an authenticated security agreement.

1800 Section 63. Subsection (1) of section 679.3131, Florida
 1801 Statutes, is amended to read:

1802 679.3131 When possession by or delivery to secured party
 1803 perfects security interest without filing.—

1804 (1) Except as otherwise provided in subsection (2), a
 1805 secured party may perfect a security interest in tangible
 1806 negotiable documents, goods, instruments, money, or tangible
 1807 chattel paper by taking possession of the collateral. A secured
 1808 party may perfect a security interest in certificated securities
 1809 by taking delivery of the certificated securities under s.

1810 678.3011.

1811 Section 64. Subsections (1) and (2) of section 679.3141,
 1812 Florida Statutes, are amended to read:

1813 679.3141 Perfection by control.—

1814 (1) A security interest in investment property, deposit
 1815 accounts, letter-of-credit rights, ~~or~~ electronic chattel paper,

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1816 or electronic documents may be perfected by control of the
 1817 collateral under s. 677.106, s. 679.1041, s. 679.1051, s.
 1818 679.1061, or s. 679.1071.

1819 (2) A security interest in deposit accounts, electronic
 1820 chattel paper, ~~or~~ letter-of-credit rights, or electronic
 1821 documents is perfected by control under s. 677.106, s. 679.1041,
 1822 s. 679.1051, or s. 679.1071 when the secured party obtains
 1823 control and remains perfected by control only while the secured
 1824 party retains control.

1825 Section 65. Subsections (2) and (4) of section 679.3171,
 1826 Florida Statutes, are amended to read:

1827 679.3171 Interests that take priority over or take free of
 1828 security interest or agricultural lien.—

1829 (2) Except as otherwise provided in subsection (5), a
 1830 buyer, other than a secured party, of tangible chattel paper,
 1831 tangible documents, goods, instruments, or a security
 1832 certificate takes free of a security interest or agricultural
 1833 lien if the buyer gives value and receives delivery of the
 1834 collateral without knowledge of the security interest or
 1835 agricultural lien and before it is perfected.

1836 (4) A licensee of a general intangible or a buyer, other
 1837 than a secured party, of accounts, electronic chattel paper,
 1838 electronic documents, general intangibles, or investment
 1839 property other than a certificated security takes free of a
 1840 security interest if the licensee or buyer gives value without
 1841 knowledge of the security interest and before it is perfected.

1842 Section 66. Subsection (2) of section 679.338, Florida
 1843 Statutes, is amended to read:

1844 679.338 Priority of security interest or agricultural lien
 1845 perfected by filed financing statement providing certain
 1846 incorrect information.—If a security interest or agricultural
 1847 lien is perfected by a filed financing statement providing
 1848 information described in s. 679.516(2)(d) which is incorrect at
 1849 the time the financing statement is filed:

1850 (2) A purchaser, other than a secured party, of the
 1851 collateral takes free of the security interest or agricultural
 1852 lien to the extent that, in reasonable reliance upon the
 1853 incorrect information, the purchaser gives value and, in the
 1854 case of tangible chattel paper, tangible documents, goods,
 1855 instruments, or a security certificate, receives delivery of the
 1856 collateral.

1857 Section 67. Paragraphs (a) and (o) of subsection (1) of
 1858 section 680.1031, Florida Statutes, are amended to read:

1859 680.1031 Definitions and index of definitions.—

1860 (1) In this chapter, unless the context otherwise
 1861 requires:

1862 (a) "Buyer in ordinary course of business" means a person
 1863 who in good faith and without knowledge that the sale to him or
 1864 her is in violation of the ownership rights or security interest
 1865 or leasehold interest of a third party in the goods buys in
 1866 ordinary course from a person in the business of selling goods
 1867 of that kind but does not include a pawnbroker. Buying may be
 1868 for cash or by exchange of other property or on secured or
 1869 unsecured credit and includes acquiring ~~receiving~~ goods or
 1870 documents of title under a preexisting contract for sale but
 1871 does not include a transfer in bulk or as security for or in

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1872 total or partial satisfaction of a money debt.

1873 (o) "Lessee in ordinary course of business" means a person
 1874 who in good faith and without knowledge that the lease to him or
 1875 her is in violation of the ownership rights or security interest
 1876 or leasehold interest of a third party in the goods leases in
 1877 ordinary course from a person in the business of selling or
 1878 leasing goods of that kind but does not include a pawnbroker.
 1879 Leasing may be for cash or by exchange of other property or on
 1880 secured or unsecured credit and includes acquiring ~~receiving~~
 1881 goods or documents of title under a preexisting lease contract
 1882 but does not include a transfer in bulk or as security for or in
 1883 total or partial satisfaction of a money debt.

1884 Section 68. Subsection (2) of section 680.514, Florida
 1885 Statutes, is amended to read:

1886 680.514 Waiver of lessee's objections.—

1887 (2) A lessee's failure to reserve rights when paying rent
 1888 or other consideration against documents precludes recovery of
 1889 the payment for defects apparent in ~~on the face of~~ the
 1890 documents.

1891 Section 69. Subsection (2) of section 680.526, Florida
 1892 Statutes, is amended to read:

1893 680.526 Lessor's stoppage of delivery in transit or
 1894 otherwise.—

1895 (2) In pursuing her or his remedies under subsection (1),
 1896 the lessor may stop delivery until:

1897 (a) Receipt of the goods by the lessee;

1898 (b) Acknowledgment to the lessee by any bailee of the
 1899 goods, except a carrier, that the bailee holds the goods for the

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1900 lessee; or

1901 (c) Such an acknowledgment to the lessee by a carrier via
1902 reshipment or as a warehouse ~~warehouseman~~.

1903 Section 70. This act shall take effect July 1, 2010.