

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 692

By: Laster of the Senate

and

Morgan (Fred) of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Uniform Commercial Code; amending 12A O.S. 2001, Sections 2-103, as amended by Section 42 of Enrolled House Bill No. 2035 of the 1st Session of the 50th Legislature, and 2A-103, as amended by Section 53 of Enrolled House Bill No. 2035 of the 1st Session of the 50th Legislature, which relate to definitions; modifying definitions; repealing 12A O.S. 2001, Sections 2-103 and 2A-103, as amended by Sections 24 and 28 of Enrolled House Bill No. 2028 of the 1st Session of the 50th Oklahoma Legislature, which relate to definitions; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12A O.S. 2001, Section 2-103, as amended by Section 42 of Enrolled House Bill No. 2035 of the 1st Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 2-103. Definitions and Index of Definitions.

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

(a) "Buyer" means a person who buys or contracts to buy goods.

(b) ~~"Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.~~

~~(c)~~ "Receipt" of goods means taking physical possession of them.

~~(d)~~ (c) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to this article or to specified parts thereof, and the sections in which they appear are:

"Acceptance". Section 2-606 of this title.

"Banker's credit". Section 2-325 of this title.

"Between merchants". Section 2-104 of this title.

"Cancellation". Section 2-106(4) of this title.

"Commercial unit". Section 2-105 of this title.

"Confirmed credit". Section 2-325 of this title.

"Conforming to contract". Section 2-106 of this title.

"Contract for sale". Section 2-106 of this title.

"Cover". Section 2-712 of this title.

"Entrusting". Section 2-403 of this title.

"Financing agency". Section 2-104 of this title.

"Future goods". Section 2-105 of this title.

"Goods". Section 2-105 of this title.

"Identification". Section 2-501 of this title.

"Installment contract". Section 2-612 of this title.

"Letter of credit". Section 2-325 of this title.

"Lot". Section 2-105 of this title.

"Merchant". Section 2-104 of this title.

"Overseas". Section 2-323 of this title.

"Person in position of seller". Section 2-707 of this title.

"Present sale". Section 2-106 of this title.

"Sale". Section 2-106 of this title.

"Sale on approval". Section 2-326 of this title.

"Sale or return". Section 2-326 of this title.

"Termination". Section 2-106 of this title.

(3) "Control" as provided in Section 7-106 of this title and the following definitions in other articles apply to this article:

"Check". Section 3-104 of this title.

"Consignee". Section 7-102 of this title.

"Consignor". Section 7-102 of this title.

"Consumer goods". Section 1-9-102 of this title.

"Dishonor". Section 3-502 of this title.

"Draft". Section 3-104 of this title.

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

SECTION 2. AMENDATORY 12A O.S. 2001, Section 2A-103, as amended by Section 53 of Enrolled House Bill No. 2035 of the 1st Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 2A-103.

DEFINITIONS AND INDEX OF DEFINITIONS

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

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

- (c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.
- (d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.
- (e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed Forty-five Thousand Dollars (\$45,000.00).
- (f) "Fault" means wrongful act, omission, breach, or default.
- (g) "Finance lease" means a lease with respect to which:
- (i) the lessor does not select, manufacture or supply the goods;
 - (ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and
 - (iii) one of the following occurs:
 - (A) the lessee receives a copy of the contract by which the lessor acquired the goods or

the right to possession and use of the goods before signing the lease contract;

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

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

(D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (b) that the lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person

supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

- (h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (Section 2A-309 of this title), ~~but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction.~~ The term also includes future goods, specially manufactured goods, and the unborn young of animals. The term does not include information, the money in which the price is to be paid, investment securities under Article 8 of the Uniform Commercial Code, or choses in action.
- (i) "Installment lease ~~contract~~" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.
- (j) "Lease" means a ~~transfer~~ of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest or license of information is

not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

- (k) "Lease agreement" ~~means~~ the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.
- (l) "Lease contract" ~~means~~ the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.
- (m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.
- (n) "Lessee" means a ~~person~~ who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.
- (o) "Lessee in the ~~ordinary~~ course of business" means a person who in good faith and without knowledge that the lease to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in the ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a

transfer in bulk or as security for or in total or partial satisfaction of a money debt.

- (p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.
- (q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.
- (r) "Lien" ~~means~~ a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.
- (s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.
- (t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.
- (u) "Present ~~value~~" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.
- (v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

- (w) "Sublease" means a ~~lease~~ of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.
- (x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.
- (y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.
- (z) "~~Termination~~" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

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

"Accessions". Subsection (1) of Section 2A-310 of this title.

"Construction mortgage". Paragraph (d) of subsection (1) of Section 2A-309 of this title.

"Encumbrance". Paragraph (e) of subsection (1) of Section 2A-309 of this title.

"Fixtures". Paragraph (a) of subsection (1) of Section 2A-309 of this title.

"Fixture filing". Paragraph (b) of subsection (1) of Section 2A-309 of this title.

"Purchase money lease". Paragraph (c) of subsection (1) of Section 2A-309 of this title.

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

"Account". Paragraph (2) of subsection (a) of Section 1-9-102 of this title.

"Between merchants". Subsection (3) of Section 2-104 of this title.

"Buyer". Paragraph (a) of subsection (1) of Section 2-103 of this title.

"Chattel paper". Paragraph (11) of subsection (a) of Section 1-9-102 of this title.

"Consumer goods". Paragraph (23) of subsection (a) of Section 1-9-102 of this title.

"Document". Paragraph (30) of subsection (a) of Section 1-9-102 of this title.

"Entrusting". Paragraph (3) of Section 2-403 of this title.

"General intangible". Paragraph (42) of subsection (a) of Section 1-9-102 of this title.

~~"Good faith". Paragraph (b) of subsection (1) of Section 2-103 of this title.~~

"Instrument". Paragraph (47) of subsection (a) of Section 1-9-102 of this title.

"Merchant". Subsection (1) of Section 2-104 of this title.

"Mortgage". Paragraph (55) of subsection (a) of Section 1-9-102 of this title.

"Pursuant to commitment". Paragraph (68) of subsection (a) of Section 1-9-102 of this title.

"Receipt". Subsection (c) of paragraph (1) of Section 2-103 of this title.

"Sale". Paragraph (1) of Section 2-106 of this title.

"Sale on approval". Section 2-326 of this title.

"Sale or return". Section 2-326 of this title.

"Seller". Subparagraph (d) of paragraph (1) of Section 2-103 of this title.

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

SECTION 3. REPEALER 12A O.S. 2001, Sections 2-103 and 2A-103, as amended by Sections 24 and 28 of Enrolled House Bill No.

2028 of the 1st Session of the 50th Oklahoma Legislature, are hereby repealed.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

50-1-2015

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