

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 3104

By: Trebilcock

4
5
6 AS INTRODUCED

7 An Act relating to the Uniform Commercial Code;
8 amending 12A O.S. 2001, Sections 2-103, as last
9 amended by Section 1, Chapter 473, O.S.L. 2005, 2-
10 105, as amended by Section 25, Chapter 139, O.S.L.
11 2005, 2-201, 2-203, 2-204, 2-205, 2-209, 2-210, 2-
12 309, 2-310, as amended by Section 44, Chapter 140,
13 O.S.L. 2005, 2-325, 2-326, 2-401, as amended by
14 Section 46, Chapter 140, O.S.L. 2005, 2-402, 2-403,
15 2-501, 2-502, 2-503, as amended by Section 47,
16 Chapter 140, O.S.L. 2005, 2-504, 2-505 and 2-506, as
17 amended by Sections 48 and 49, Chapter 140, O.S.L.
18 2005, 2-507, 2-508, 2-509, as amended by Section 50,
19 Chapter 140, O.S.L. 2005, 2-514, 2-602, 2-605, as
20 amended by Section 51, Chapter 140, O.S.L. 2005, 2-
21 606, 2-608, 2-609, 2-614, 2-615, 2-616, 2-702, 2-704,
22 2-705, as amended by Section 52, Chapter 140, O.S.L.
23 2005, 2-706, 2-707, 2-708, 2-709, 2-710, 2-713, 2-
24 716, 2-718 and 2-723 (12A O.S. Supp. 2009, Sections
2-103, 2-105, 2-310, 2-401, 2-503, 2-505, 2-506, 2-
509, 2-605 and 2-705), which relate to Article 2 of
the Uniform Commercial Code, which pertains to sales;
modifying definitions; providing for transactions
that are subject to other laws; modifying certain
procedures and requirements; modifying rules that
apply to formation of contracts, firm offers,
modification, rescission and waiver; modifying rules
that apply to assignment of rights and delegation of
performance; providing for legal recognition of
electronic contracts, records and signatures;
providing for standards for the nature and timing of
notice; modifying requirements relating to payment,
running of credit and shipping; modifying rules
pertaining to payment by letter of credit; clarifying
provisions relating to returns; modifying delivery
requirement for passing of title; modifying rights of

1 creditors; clarifying rights of purchasers; modifying
rights of buyers with respect to goods; modifying
2 seller's right to cure improper delivery or tender;
modifying rights of financing agencies; modifying
3 effect of tender by seller; modifying when risk of
loss passes; modifying exception to when documents
4 are delivered; modifying provisions relating to
breach, repudiation and excuse; clarifying language;
5 modifying circumstances that constitute waiver of
buyer's objections; modifying what constitutes
6 acceptance of goods; providing rules for use of goods
after rejection or revocation of acceptance;
7 modifying terminology relating to substituted
performance and excuse; modifying provisions relating
8 to remedies; clarifying language; allowing for
consequential damages in certain circumstances;
9 providing that a person in the position of a seller
has same remedies as seller; modifying measure of
10 damages for nonacceptance and repudiation; providing
that consequential damages include certain loss;
11 prohibiting consequential damages in certain
circumstances; providing an exception; modifying
12 measure of damages for nondelivery or repudiation;
providing that specific performance may be decreed in
13 certain circumstances; providing exception; modifying
buyer's right of replevin for certain goods;
14 providing for enforceability of liquidated damages;
modifying reasons for justifiable withholding of
15 delivery of goods or stopping of performance;
modifying determination market price for certain
16 actions; amending 12A O.S. 2001, Sections 2A-103, as
last amended by Section 2, Chapter 473, O.S.L. 2005,
17 2A-211, 2A-303 and 2A-506 (12A O.S. Supp. 2009,
Section 2A-103), which relate to Article 2A of the
18 Uniform Commercial Code, pertaining to leases;
modifying definitions; modifying scope of warranties;
19 clarifying limitations on alienability of interest
under lease contract; excluding consumer leases and
20 actions for indemnity from statute of limitation
provision; providing application to existing
21 transactions and rights of action; providing savings
clause; providing for codification; providing for
22 noncodification; and providing an effective date.

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

2 SECTION 1. AMENDATORY 12A O.S. 2001, Section 2-103, as
3 last amended by Section 1, Chapter 473, O.S.L. 2005 (12A O.S. Supp.
4 2009, Section 2-103), is amended to read as follows:

5 Section 2-103. Definitions and Index of Definitions.

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

7 (a) "Buyer" means a person ~~who~~ that buys or contracts to
8 buy goods.

9 (b) "Conspicuous", with reference to a term, means so
10 written, displayed, or presented that a reasonable
11 person against which it is to operate ought to have
12 noticed it. A term in an electronic record intended
13 to evoke a response by an electronic agent is
14 conspicuous if it is presented in a form that would
15 enable a reasonably configured electronic agent to
16 take it into account or react to it without review of
17 the record by an individual. Whether a term is
18 "conspicuous" or not is a decision for the court.

19 Conspicuous terms include the following:

20 (i) for a person:

21 (A) a heading in capitals equal to or greater in
22 size than the surrounding text, or in
23 contrasting type, font, or color to the

24

1 surrounding text of the same or lesser size;

2 and

3 (B) language in the body of a record or display
4 in larger type than the surrounding text, or
5 in contrasting type, font, or color to the
6 surrounding text of the same size, or set
7 off from surrounding text of the same size
8 by symbols or other marks that call
9 attention to the language; and

10 (ii) for a person or an electronic agent, a term that
11 is so placed in a record or display that the
12 person or electronic agent may not proceed
13 without taking action with respect to the
14 particular term.

15 (c) "Delivery" means, with respect to goods, the voluntary
16 transfer of physical possession or control of goods.

17 (d) "Electronic" means relating to technology having
18 electrical, digital, magnetic, wireless, optical,
19 electromagnetic, or similar capabilities.

20 (e) "Electronic agent" means a computer program or an
21 electronic or other automated means used independently
22 to initiate an action or respond to electronic records
23 or performances in whole or in part, without review or
24 action by an individual.

1 (f) "Electronic record" means a record created, generated,
2 sent, communicated, received, or stored by electronic
3 means.

4 (g) "Foreign exchange transaction" means a transaction in
5 which one party agrees to deliver a quantity of a
6 specified money or unit of account in consideration of
7 the other party's agreement to deliver another
8 quantity of a different money or unit of account
9 either currently or at a future date, and in which
10 delivery is to be through funds transfer, book entry
11 accounting, or other form of payment order, or other
12 agreed means to transfer a credit balance. The term
13 includes a transaction of this type involving two or
14 more monies and spot, forward, option, or other
15 products derived from underlying monies and any
16 combination of these transactions. The term does not
17 include a transaction involving two or more monies in
18 which one or both of the parties is obligated to make
19 physical delivery, at the time of contracting or in
20 the future, of banknotes, coins, or other form of
21 legal tender or specie.

22 (h) Reserved.

23 (i) "Goods" means all things that are movable at the time
24 of identification to a contract for sale. The term

1 includes future goods, specially manufactured goods,
2 the unborn young of animals, growing crops, and other
3 identified things attached to realty as described in
4 Section 2-107 of this title. The term does not
5 include information, the money in which the price is
6 to be paid, investment securities under Article 8 of
7 the Uniform Commercial Code, the subject matter of
8 foreign exchange transactions, or choses in action.

9 (j) "Receipt" of goods means taking physical possession
10 of ~~them~~ goods.

11 ~~(e)~~ (k) "Seller" means a person ~~who~~ that sells or contracts to
12 sell goods.

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

15 (i) to execute or adopt a tangible symbol; or

16 (ii) to attach to or logically associate with the
17 record an electronic sound, symbol, or process.

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

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

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

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

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

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

1 ~~"Confirmed credit". Section 2-325 of this title.~~
2 "Conforming to contract". Section 2-106 of this title.
3 "Contract for sale". Section 2-106 of this title.
4 "Cover". Section 2-712 of this title.
5 "Entrusting". Section 2-403 of this title.
6 "Financing agency". Section 2-104 of this title.
7 "Future goods". Section 2-105 of this title.
8 ~~"Goods". Section 2-105 of this title.~~
9 "Identification". Section 2-501 of this title.
10 "Installment contract". Section 2-612 of this title.
11 ~~"Letter of credit". Section 2-325 of this title.~~
12 "Lot". Section 2-105 of this title.
13 "Merchant". Section 2-104 of this title.
14 "Overseas". Section 2-323 of this title.
15 "Person in position of seller". Section 2-707 of this
16 title.
17 "Present sale". Section 2-106 of this title.
18 "Sale". Section 2-106 of this title.
19 "Sale on approval". Section 2-326 of this title.
20 "Sale or return". Section 2-326 of this title.
21 "Termination". Section 2-106 of this title.
22 (3) "Control" as provided in Section 7-106 of this title and
23 the following definitions in other articles apply to this article:
24 "Check". Subsection (f) of Section 3-104 of this title.

1 "Consignee". Paragraph (3) of subsection (a) of Section 7-
2 102 of this title.

3 "Consignor". Paragraph (4) of subsection (a) of Section
4 7-102 of this title.

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

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

7 "Draft". Subsection (e) of Section 3-104 of this title.

8 "Honor". Paragraph (8) of subsection (a) of Section 5-102
9 of this title.

10 "Injunction against honor". Subsection (b) of Section 5-
11 109 of this title.

12 "Letter of credit". Paragraph (10) of subsection (a) of
13 Section 5-102 of this title.

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

17 SECTION 2. AMENDATORY 12A O.S. 2001, Section 2-105, as
18 amended by Section 25, Chapter 139, O.S.L. 2005 (12A O.S. Supp.
19 2009, Section 2-105), is amended to read as follows:

20 Section 2-105. Definitions: Transferability; ~~"Goods"~~;
21 "Future" Goods; "Lot"; "Commercial Unit".

22 (1) ~~"Goods" means all things (including specially manufactured~~
23 ~~goods) which are movable at the time of identification to the~~
24 ~~contract for sale other than the money in which the price is to be~~

1 ~~paid, investment securities (Article 8) and things in action.~~
2 ~~"Goods" also includes the unborn young of animals and growing crops~~
3 ~~and other identified things attached to realty as described in the~~
4 ~~section on goods to be severed from realty (Section 2 107) but does~~
5 ~~not include information.~~

6 ~~(2)~~ Goods must be both existing and identified before any
7 interest in them can pass. Goods which are not both existing and
8 identified are "future" goods. A purported present sale of future
9 goods or of any interest therein operates as a contract to sell.

10 ~~(3)~~ (2) There may be a sale of a part interest in existing
11 identified goods.

12 ~~(4)~~ (3) An undivided share in an identified bulk of fungible
13 goods is sufficiently identified to be sold although the quantity of
14 the bulk is not determined. Any agreed proportion of ~~such a~~ the
15 bulk or any quantity thereof agreed upon by number, weight or other
16 measure may to the extent of the seller's interest in the bulk be
17 sold to the buyer ~~who~~ that then becomes an owner in common.

18 ~~(5)~~ (4) "Lot" means a parcel or a single article which is the
19 subject matter of a separate sale or delivery, whether or not it is
20 sufficient to perform the contract.

21 ~~(6)~~ (5) "Commercial unit" means such a unit of goods as by
22 commercial usage is a single whole for purposes of sale and division
23 of which materially impairs its character or value on the market or
24 in use. A commercial unit may be a single article (as a machine) or

1 a set of articles (as a suite of furniture or an assortment of
2 sizes) or a quantity (as a bale, gross, or carload) or any other
3 unit treated in use or in the relevant market as a single whole.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2-108 of Title 12A, unless there
6 is created a duplication in numbering, reads as follows:

7 Transactions Subject to Other Law.

8 (1) A transaction subject to this article is also subject to
9 any applicable:

10 (a) certificate of title statutes of this state covering
11 automobiles, other motor vehicles, trailers,
12 manufactured or mobile homes, or boats, except with
13 respect to the rights of a buyer in ordinary course
14 of business under subsection (2) of Section 2-403 of
15 Title 12A of the Oklahoma Statutes which arise before
16 a certificate of title covering the goods is
17 effective in the name of any other buyer;

18 (b) statute that establishes a different rule for
19 consumers; or

20 (c) statute of this state applicable to the transaction,
21 such as a statute dealing with:

22 (i) the sale or lease of agricultural products;

23 (ii) the transfer of human blood, blood products,
24 tissues, or parts;

- 1 (iii) the consignment or transfer by artists of works
2 of art or fine prints;
- 3 (iv) distribution agreements, franchises, and other
4 relationships through which goods are sold;
- 5 (v) the misbranding or adulteration of food products
6 or drugs; and
- 7 (vi) dealers in particular products, such as
8 automobiles, motorized wheelchairs, agricultural
9 equipment, and hearing aids.

10 (2) Except for the rights of a buyer in ordinary course of
11 business under paragraph (a) of subsection (1) of this section, in
12 the event of a conflict between this article and a law referred to
13 in subsection (1) of this section, that law governs.

14 (3) For purposes of this article, failure to comply with a law
15 referred to in subsection (1) of this section has only the effect
16 specified in that law.

17 (4) This article modifies, limits, and supersedes the federal
18 Electronic Signatures in Global and National Commerce Act, 15
19 U.S.C., Section 7001 et seq., except that nothing in this article
20 modifies, limits, or supersedes Section 7001(c) of that act or
21 authorizes electronic delivery of any of the notices described in
22 Section 7003(b) of that act. In part to effectuate the ability to
23 supersede the federal Electronic Signatures in Global and National
24 Commerce Act, any reference in this article to a "writing" or

1 "written" document shall be deemed to mean a "record", as defined by
2 paragraph (31) of subsection (b) of Section 1-201 of Title 12A of
3 the Oklahoma Statutes.

4 SECTION 4. AMENDATORY 12A O.S. 2001, Section 2-201, is
5 amended to read as follows:

6 Section 2-201. Formal Requirements; Statute of Frauds.

7 (1) ~~Except as otherwise provided in this section a~~ A contract
8 for the sale of goods for the price of ~~Five Hundred Dollars~~
9 ~~(\$500.00)~~ Five Thousand Dollars (\$5,000.00) or more is not
10 enforceable by way of action or defense unless there is some ~~writing~~
11 record sufficient to indicate that a contract for sale has been made
12 between the parties and signed by the party against ~~whom~~ which
13 enforcement is sought or by ~~his~~ the party's authorized agent or
14 broker. A ~~writing~~ record is not insufficient because it omits or
15 incorrectly states a term agreed upon but the contract is not
16 enforceable under this ~~paragraph~~ subsection beyond the quantity of
17 goods shown in ~~such writing~~ the record.

18 (2) Between merchants if within a reasonable time a ~~writing~~
19 record in confirmation of the contract and sufficient against the
20 sender is received and the party receiving it has reason to know its
21 contents, it satisfies the requirements of subsection (1) of this
22 section against ~~such party~~ the recipient unless ~~written~~ notice of
23 objection to its contents is given in a record within ten (10) days
24 after it is received.

1 (3) A contract ~~which~~ that does not satisfy the requirements of
2 subsection (1) of this section but which is valid in other respects
3 is enforceable:

4 (a) if the goods are to be specially manufactured for the
5 buyer and are not suitable for sale to others in the
6 ordinary course of the seller's business and the
7 seller, before notice of repudiation is received and
8 under circumstances ~~which~~ that reasonably indicate
9 that the goods are for the buyer, has made either a
10 substantial beginning of their manufacture or
11 commitments for their procurement; ~~or~~

12 (b) if the party against ~~whom~~ which enforcement is sought
13 admits in ~~his~~ the party's pleading, testimony or
14 otherwise ~~in court~~ under oath that a contract for sale
15 was made, but the contract is not enforceable under
16 this ~~provision~~ paragraph beyond the quantity of goods
17 admitted; or

18 (c) with respect to goods for which payment has been made
19 and accepted or which have been received and accepted
20 (Section 2-606 of this title).

21 (4) A contract that is enforceable under this section is not
22 unenforceable merely because it is not capable of being performed
23 within one (1) year or any other period after its making.

1 SECTION 5. AMENDATORY 12A O.S. 2001, Section 2-203, is
2 amended to read as follows:

3 Section 2-203. Seals Inoperative.

4 The affixing of a seal to a ~~writing~~ record evidencing a contract
5 for sale or an offer to buy or sell goods does not constitute the
6 ~~writing~~ record a sealed instrument ~~and the~~. The law with respect to
7 sealed instruments does not apply to such a contract or offer.

8 SECTION 6. AMENDATORY 12A O.S. 2001, Section 2-204, is
9 amended to read as follows:

10 Section 2-204. Formation in General.

11 (1) A contract for sale of goods may be made in any manner
12 sufficient to show agreement, including offer and acceptance,
13 conduct by both parties which recognizes the existence of ~~such~~ a
14 contract, the interaction of electronic agents, and the interaction
15 of an electronic agent and an individual.

16 (2) An agreement sufficient to constitute a contract for sale
17 may be found even ~~though~~ if the moment of its making is
18 undetermined.

19 (3) Even ~~though~~ if one or more terms are left open a contract
20 for sale does not fail for indefiniteness if the parties have
21 intended to make a contract and there is a reasonably certain basis
22 for giving an appropriate remedy.

23 (4) Except as otherwise provided in Sections 10 through 12 of
24 this act, the following rules apply:

1 (a) A contract may be formed by the interaction of
2 electronic agents of the parties, even if no
3 individual was aware of or reviewed the electronic
4 agents' actions or the resulting terms and agreements.

5 (b) A contract may be formed by the interaction of an
6 electronic agent and an individual acting on the
7 individual's own behalf or for another person. A
8 contract is formed if the individual takes actions
9 that the individual is free to refuse to take or makes
10 a statement, and the individual has reason to know
11 that the actions or statement will:

12 (i) cause the electronic agent to complete the
13 transaction or performance; or

14 (ii) indicate acceptance of an offer, regardless of
15 other expressions or actions by the individual to
16 which the electronic agent cannot react.

17 SECTION 7. AMENDATORY 12A O.S. 2001, Section 2-205, is
18 amended to read as follows:

19 Section 2-205. Firm Offers.

20 An offer by a merchant to buy or sell goods in a signed ~~writing~~
21 ~~which~~ record that by its terms gives assurance that it will be held
22 open is not revocable, for lack of consideration, during the time
23 stated or if no time is stated for a reasonable time, but in no
24 event may ~~such~~ the period of irrevocability exceed three (3) months;

1 ~~but any.~~ Any such term of assurance ~~on~~ in a form supplied by the
2 offeree must be separately signed by the offeror.

3 SECTION 8. AMENDATORY 12A O.S. 2001, Section 2-209, is
4 amended to read as follows:

5 Section 2-209. Modification, Rescission and Waiver.

6 (1) An agreement modifying a contract within this article needs
7 no consideration to be binding.

8 (2) ~~A signed~~ An agreement in a signed record which excludes
9 modification or rescission except by a signed ~~writing cannot~~ record
10 may not be otherwise modified or rescinded, but except as between
11 merchants such a requirement ~~on~~ in a form supplied by the merchant
12 must be separately signed by the other party.

13 (3) The requirements of ~~the statute of frauds section of this~~
14 ~~article (Section 2-201)~~ of this title must be satisfied if the
15 contract as modified is within its provisions.

16 (4) Although an attempt at modification or rescission does not
17 satisfy the requirements of subsection (2) or (3) of this section
18 it ~~can~~ may operate as a waiver.

19 (5) A party ~~who~~ that has made a waiver affecting an executory
20 portion of ~~the~~ a contract may retract the waiver by reasonable
21 notification received by the other party that strict performance
22 will be required of any term waived, unless the retraction would be
23 unjust in view of a material change of position in reliance on the
24 waiver.

1 SECTION 9. AMENDATORY 12A O.S. 2001, Section 2-210, is
2 amended to read as follows:

3 Section 2-210. Delegation of Performance; Assignment of Rights.

4 (1) ~~A party may perform his duty through a delegate unless~~
5 ~~otherwise agreed or unless the other party has a substantial~~
6 ~~interest in having his original promisor perform or control the acts~~
7 ~~required by the contract. No delegation of performance relieves the~~
8 ~~party delegating of any duty to perform or any liability for breach.~~

9 ~~(2) Except~~ If the seller or buyer assigns rights under a
10 contract, the following rules apply:

11 (a) Subject to paragraph (b) of this subsection and except as
12 otherwise provided in Section 1-9-406 of this title,~~unless or~~
13 otherwise agreed, all rights of ~~either~~ the seller or the buyer ~~can~~
14 may be assigned ~~except where~~ unless the assignment would materially
15 change the duty of the other party, ~~or~~ increase materially the
16 burden or risk imposed on ~~him~~ that party by ~~his~~ the contract, or
17 impair materially ~~his~~ that party's chance of obtaining return
18 performance. A right to damages for breach of the whole contract or
19 a right arising out of the assignor's due performance of ~~his~~ its
20 entire obligation ~~can~~ may be assigned despite an agreement
21 otherwise.

22 ~~(3)~~ (b) The creation, attachment, perfection, or enforcement of
23 a security interest in the seller's interest under a contract is not
24 ~~a transfer~~ an assignment that materially changes the duty of or

1 ~~increases~~ materially increases the burden or risk imposed on the
2 buyer or ~~impairs~~ materially impairs the buyer's chance of obtaining
3 return performance ~~within the purview of~~ under paragraph ~~(2)~~ (a) of
4 this ~~section~~ subsection unless, and then only to the extent that,
5 enforcement ~~actually~~ of the security interest results in a
6 delegation of material performance of the seller. Even in that
7 event, the creation, attachment, perfection, and enforcement of the
8 security interest remain effective, ~~but (i)~~. However, the seller is
9 liable to the buyer for damages caused by the delegation to the
10 extent that the damages could not reasonably be prevented by the
11 buyer, and ~~(ii)~~ a court ~~having jurisdiction~~ may grant other
12 appropriate relief, including cancellation of the contract for sale
13 or an injunction against enforcement of the security interest or
14 consummation of the enforcement.

15 ~~(4) Unless the circumstances indicate the contrary a~~
16 ~~prohibition of assignment of "the contract" is to be construed as~~
17 ~~barring only the delegation to the assignee of the assignor's~~
18 ~~performance.~~

19 ~~(5) An assignment of "the contract" or of "all my rights under~~
20 ~~the contract" or an assignment in similar general terms is an~~
21 ~~assignment of rights and unless the language or the circumstances~~
22 ~~(as in an assignment for security) indicate the contrary, it is a~~
23 ~~delegation of performance of the duties of the assignor and its~~
24 ~~acceptance~~

1 (2) If the seller or buyer delegates performance of its duties
2 under a contract, the following rules apply:

3 (a) A party may perform its duties through a delegate unless
4 otherwise agreed or unless the other party has a substantial
5 interest in having the original promisor perform or control the acts
6 required by the contract. Delegation of performance does not
7 relieve the delegating party of any duty to perform or liability for
8 breach.

9 (b) Acceptance of a delegation of duties by the assignee
10 constitutes a promise by him to perform those duties. This The
11 promise is enforceable by either the assignor or the other party to
12 the original contract.

13 ~~(c)~~ (c) The other party may treat any assignment which
14 delegates performance delegation of duties as creating reasonable
15 grounds for insecurity and may without prejudice to his its rights
16 against the assignor demand assurances from the assignee under
17 Section 2-609 of this title.

18 (d) A contractual term prohibiting the delegation of duties
19 otherwise delegable under paragraph (a) of this subsection is
20 enforceable, and an attempted delegation is not effective.

21 (3) An assignment of "the contract" or of "all my rights under
22 the contract" or an assignment in similar general terms is an
23 assignment of rights and unless the language or the circumstances,
24

1 as in an assignment for security, indicate the contrary, it is also
2 a delegation of performance of the duties of the assignor.

3 (4) Unless the circumstances indicate the contrary, a
4 prohibition of assignment of "the contract" is to be construed as
5 barring only the delegation to the assignee of the assignor's
6 performance.

7 SECTION 10. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2-211 of Title 12A, unless there
9 is created a duplication in numbering, reads as follows:

10 Legal Recognition of Electronic Contracts, Records, and
11 Signatures.

12 (1) A record or signature may not be denied legal effect or
13 enforceability solely because it is in electronic form.

14 (2) A contract may not be denied legal effect or enforceability
15 solely because an electronic record was used in its formation.

16 (3) This article does not require a record or signature to be
17 created, generated, sent, communicated, received, stored, or
18 otherwise processed by electronic means or in electronic form.

19 (4) A contract formed by the interaction of an individual and
20 an electronic agent under paragraph (b) of subsection (4) of Section
21 2-204 of Title 12A of the Oklahoma Statutes does not include terms
22 provided by the individual if the individual had reason to know that
23 the agent could not react to the terms as provided.

24

1 SECTION 11. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-212 of Title 12A, unless there
3 is created a duplication in numbering, reads as follows:

4 Attribution.

5 An electronic record or electronic signature is attributable to
6 a person if it was the act of the person or the person's electronic
7 agent or the person is otherwise legally bound by the act.

8 SECTION 12. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2-213 of Title 12A, unless there
10 is created a duplication in numbering, reads as follows:

11 Electronic Communication.

12 (1) If the receipt of an electronic communication has a legal
13 effect, it has that effect even if no individual is aware of its
14 receipt.

15 (2) Receipt of an electronic acknowledgment of an electronic
16 communication establishes that the communication was received but,
17 in itself, does not establish that the content sent corresponds to
18 the content received.

19 SECTION 13. AMENDATORY 12A O.S. 2001, Section 2-309, is
20 amended to read as follows:

21 Section 2-309. Absence of Specific Time Provisions; Notice of
22 Termination.

23

24

1 (1) The time for shipment or delivery or any other action under
2 a contract if not provided in this article or agreed upon shall be a
3 reasonable time.

4 (2) ~~Where~~ If the contract provides for successive performances
5 but is indefinite in duration it is valid for a reasonable time but
6 unless otherwise agreed may be terminated at any time by either
7 party.

8 (3) Termination of a contract by one party except on the
9 happening of an agreed event requires that reasonable notification
10 be received by the other party and an agreement dispensing with
11 notification is invalid if its operation would be unconscionable. A
12 term specifying standards for the nature and timing of notice is
13 enforceable if the standards are not manifestly unreasonable.

14 SECTION 14. AMENDATORY 12A O.S. 2001, Section 2-310, as
15 amended by Section 44, Chapter 140, O.S.L. 2005 (12A O.S. Supp.
16 2009, Section 2-310), is amended to read as follows:

17 Section 2-310. Open Time for Payment or Running of Credit;
18 Authority to Ship Under Reservation.

19 Unless otherwise agreed:

20 (a) payment is due at the time and place at which the buyer is
21 to receive the goods even though the place of shipment is the place
22 of delivery; ~~and~~

23 (b) if the seller is required or authorized to send the goods
24 he, the seller may ship them under reservation, and may tender the

1 documents of title, but the buyer may inspect the goods after their
2 arrival before payment is due unless ~~such~~ the inspection is
3 inconsistent with the terms of the contract (Section 2-513 of this
4 title); and

5 (c) if tender of delivery is ~~authorized and~~ agreed to be made
6 by way of documents of title otherwise than by ~~subsection~~ paragraph
7 (b) of this section, then payment is due regardless of where the
8 goods are to be received (i) at the time and place at which the
9 buyer is to receive delivery of the tangible documents or (ii) at
10 the time the buyer is to receive delivery of the electronic
11 documents and at the seller's place of business or if none, the
12 seller's residence; and

13 (d) ~~where~~ if the seller is required or authorized to ship the
14 goods on credit, the credit period runs from the time of shipment
15 but ~~post-dating~~ postdating the invoice or delaying its dispatch will
16 correspondingly delay the starting of the credit period.

17 SECTION 15. AMENDATORY 12A O.S. 2001, Section 2-325, is
18 amended to read as follows:

19 Section 2-325. "Failure to Pay by Agreed Letter of Credit"
20 ~~Term; "Confirmed Credit"~~.

21 ~~(1) Failure of the buyer seasonably to furnish an agreed~~ If the
22 parties agree that the primary method of payment will be by letter
23 of credit is a breach of the contract for sale.

24 ~~(2) The,~~ the following rules apply:

1 (a) The buyer's obligation to pay is suspended by reasonable
2 delivery to seller of a ~~proper~~ letter of credit ~~suspends the buyer's~~
3 ~~obligation to pay. If the letter of credit is dishonored, the~~
4 ~~seller may on reasonable notification to the buyer require payment~~
5 ~~directly from him.~~

6 ~~(3) Unless otherwise agreed the term "letter of credit" or~~
7 ~~"banker's credit" in a contract for sale means an irrevocable credit~~
8 ~~issued by a financing agency of good repute and, where the shipment~~
9 ~~is overseas, of good international repute. The term "confirmed~~
10 ~~credit" means that the credit must also carry the direct obligation~~
11 ~~of such an agency which does business in the seller's financial~~
12 ~~market~~ issued or confirmed by a financing agency of good repute in
13 which the issuer and any confirmer undertake to pay against
14 presentation of documents that evidence delivery of the goods.

15 (b) Failure of a party seasonably to furnish a letter of credit
16 as agreed is a breach of the contract for sale.

17 (c) If the letter of credit is dishonored or repudiated, the
18 seller, on reasonable notification, may require payment directly
19 from the buyer.

20 SECTION 16. AMENDATORY 12A O.S. 2001, Section 2-326, is
21 amended to read as follows:

22 Section 2-326. Sale on Approval and Sale or Return; ~~Consignment~~
23 ~~Sales and Rights of Creditors.~~

1 (1) Unless otherwise agreed, if delivered goods may be returned
2 by the buyer even though they conform to the contract, the
3 transaction is:

4 (a) a "sale on approval" if the goods are delivered primarily
5 for use; and

6 (b) a "sale or return" if the goods are delivered primarily for
7 resale.

8 (2) Goods held on approval are not subject to the claims of the
9 buyer's creditors until acceptance; goods held on sale or return are
10 subject to such claims while in the buyer's possession.

11 (3) Any "or return" term of a contract for sale is to be
12 treated as a separate contract for sale ~~within the statute of frauds~~
13 ~~section of this article~~ (under Section 2-201 of this title) and as
14 contradicting the sale aspect of the contract ~~within the provisions~~
15 ~~of this article on parole or extrinsic evidence~~ (under Section 2-202
16 of this title).

17 SECTION 17. AMENDATORY 12A O.S. 2001, Section 2-401, as
18 amended by Section 46, Chapter 140, O.S.L. 2005 (12A O.S. Supp.
19 2009, Section 2-401), is amended to read as follows:

20 Section 2-401. Passing of Title; Reservation for Security;
21 Limited Application of this Section.

22 Each provision of this article with regard to the rights,
23 obligations and remedies of the seller, the buyer, purchasers or
24 other third parties applies irrespective of title to the goods

1 except where the provision refers to such title. Insofar as
2 situations are not covered by the other provisions of this article
3 and matters concerning title become material the following rules
4 apply:

5 (1) Title to goods cannot pass under a contract for sale prior
6 to their identification to the contract (Section 2-501 of this
7 title), and unless otherwise explicitly agreed the buyer acquires by
8 their identification a special property as limited by ~~this act~~ the
9 Uniform Commercial Code. Any retention or reservation by the seller
10 of the title (property) in goods shipped or delivered to the buyer
11 is limited in effect to a reservation of a security interest.
12 Subject to these provisions and to ~~the provisions of the article on~~
13 ~~Secured Transactions (Article 9)~~ of the Uniform Commercial Code,
14 title to goods passes from the seller to the buyer in any manner and
15 on any conditions explicitly agreed on by the parties.

16 (2) Unless otherwise explicitly agreed title passes to the
17 buyer at the time and place at which the seller completes ~~his~~
18 performance with reference to the ~~physical~~ delivery of the goods,
19 despite any reservation of a security interest and even ~~though~~ if a
20 document of title is to be delivered at a different time or place;
21 and in particular and despite any reservation of a security interest
22 by the bill of lading:

23 (a) if the contract requires or authorizes the seller to send
24 the goods to the buyer but does not require ~~him~~ the seller to

1 deliver them at destination, title passes to the buyer at the time
2 and place of shipment; but

3 (b) if the contract requires delivery at destination, title
4 passes on tender there.

5 (3) Unless otherwise explicitly agreed ~~where~~ if delivery is to
6 be made without moving the goods,

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

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

15 (4) A rejection or other refusal by the buyer to receive or
16 retain the goods, whether or not justified, or a justified
17 revocation of acceptance revests title to the goods in the seller.
18 Such reversioning occurs by operation of law and is not a "sale".

19 SECTION 18. AMENDATORY 12A O.S. 2001, Section 2-402, is
20 amended to read as follows:

21 Section 2-402. Rights of Seller's Creditors Against Sold Goods.

22 (1) Except as provided in subsections (2) and (3) of this
23 section, rights of unsecured creditors of the seller with respect to
24 goods ~~which~~ that have been identified to a contract for sale are

1 subject to the buyer's rights to recover the goods under ~~this~~
2 ~~article~~ (Sections 2-502 and 2-716) of this title.

3 (2) A creditor of the seller may treat a sale or an
4 identification of goods to a contract for sale as void if as against
5 ~~him~~ the creditor a retention of possession by the seller is
6 fraudulent under any rule of law of the state where the goods are
7 situated, ~~except that.~~ However, retention of possession in good
8 faith and current course of trade by a merchant-seller for a
9 commercially reasonable time after a sale or identification is not
10 fraudulent.

11 (3) ~~Nothing~~ Except as otherwise provided in subsection (2) of
12 Section 2-403 of this title, nothing in this article shall be deemed
13 to impair the rights of creditors of the seller.:

14 (a) under ~~the provisions of the article on Secured~~
15 ~~Transactions~~ (Article 9) of the Uniform Commercial
16 Code; or

17 (b) ~~where~~ if identification to the contract or delivery is
18 made not in current course of trade but in
19 satisfaction of or as security for a ~~pre-existing~~
20 preexisting claim for money, security or the like and
21 is made under circumstances ~~which~~ that under any rule
22 of law of the state where the goods are situated would
23 apart from this article constitute the transaction a
24 fraudulent transfer or voidable preference.

1 SECTION 19. AMENDATORY 12A O.S. 2001, Section 2-403, is
2 amended to read as follows:

3 Section 2-403. Power to Transfer; Good Faith Purchase of Goods;
4 "Entrusting".

5 (1) A purchaser of goods acquires all title ~~which his~~ that the
6 purchaser's transferor had or had power to transfer except that a
7 purchaser of a limited interest acquires rights only to the extent
8 of the interest purchased. A person with voidable title has power
9 to transfer a good title to a ~~good faith~~ good-faith purchaser for
10 value. ~~When~~ If goods have been delivered under a transaction of
11 purchase the purchaser has such power even ~~though~~ if:

12 (a) the transferor was deceived as to the identity of the
13 purchaser, ~~or~~;

14 (b) the delivery was in exchange for a check ~~which~~ that is
15 later dishonored, ~~or~~;

16 (c) it was agreed that the transaction was to be a "cash
17 sale", ~~;~~ or

18 (d) the delivery was procured through criminal fraud
19 ~~punishable as larcenous under the criminal law.~~

20 (2) Any entrusting ~~of possession~~ of goods to a merchant ~~who~~
21 that deals in goods of that kind gives ~~him~~ the merchant power to
22 transfer all of the entruster's rights to the goods and to transfer
23 the goods free of any interest of the entruster to a buyer in
24 ordinary course of business.

1 (3) "Entrusting" includes any delivery and any acquiescence in
2 retention of possession regardless of any condition expressed
3 between the parties to the delivery or acquiescence and regardless
4 of whether the procurement of the entrusting or the possessor's
5 disposition of the goods ~~have been such as to be larcenous~~ was
6 punishable under the criminal law.

7 (4) The rights of other purchasers of goods and of lien
8 creditors are governed by ~~the articles on Secured Transactions~~
9 ~~(Article 9) and Documents of Title (Article 7)~~ Articles 7 and 9 of
10 the Uniform Commercial Code.

11 SECTION 20. AMENDATORY 12A O.S. 2001, Section 2-501, is
12 amended to read as follows:

13 Section 2-501. Insurable Interest in Goods; Manner of
14 Identification of Goods.

15 (1) The buyer obtains a special property and an insurable
16 interest in goods by identification of existing goods as goods to
17 which the contract refers even though the goods so identified are
18 nonconforming and ~~he~~ the buyer has an option to return or reject
19 them. Such identification can be made at any time and in any manner
20 explicitly agreed to by the parties. In the absence of explicit
21 agreement identification occurs

22 (a) when the contract is made if it is for the sale of
23 goods already existing and identified;

24

1 (b) if the contract is for the sale of future goods other
2 than those described in paragraph (c) of this
3 subsection, when goods are shipped, marked or
4 otherwise designated by the seller as goods to which
5 the contract refers;

6 (c) when the crops are planted or otherwise become growing
7 crops or the young are conceived if the contract is
8 for the sale of unborn young to be born within twelve
9 (12) months after contracting or for the Sale of crops
10 to be harvested within twelve (12) months or the next
11 normal harvest season after contracting whichever is
12 longer.

13 (2) The seller retains an insurable interest in goods so long
14 as title to or any security interest in the goods remains ~~in him~~ the
15 seller. If and where the identification is by the seller alone ~~he~~
16 the seller may until default or insolvency or notification to the
17 buyer that the identification is final substitute other goods for
18 those identified.

19 (3) Nothing in this section impairs any insurable interest
20 recognized under any other statute or rule of law.

21 SECTION 21. AMENDATORY 12A O.S. 2001, Section 2-502, is
22 amended to read as follows:

23 Section 2-502. Buyer's Right to Goods on Seller's Insolvency,
24 Repudiation, or Failure to Deliver.

1 (1) Subject to ~~paragraphs~~ subsections (2) and (3) of this
2 section and even ~~though~~ if the goods have not been shipped, a buyer
3 ~~who~~ that has paid a part or all of the price of goods in which the
4 buyer has a special property under ~~the provisions of~~ Section 2-501
5 of this title may on making and keeping good a tender of any unpaid
6 portion of their price recover them from the seller if:

7 (a) in the case of goods bought ~~for personal, family, or~~
8 ~~household purposes~~ by a consumer, the seller repudiates or fails to
9 deliver as required by the contract; or

10 (b) in all cases, the seller becomes insolvent within ten (10)
11 days after receipt of the first installment on their price.

12 (2) The buyer's right to recover the goods under ~~subparagraph~~
13 paragraph (a) of ~~paragraph~~ subsection (1) of this section vests upon
14 acquisition of a special property, even if the seller had not then
15 repudiated or failed to deliver.

16 (3) If the identification creating ~~his~~ a special property has
17 been made by the buyer ~~he~~, the buyer acquires the right to recover
18 the goods only if they conform to the contract for sale.

19 SECTION 22. AMENDATORY 12A O.S. 2001, Section 2-503, as
20 amended by Section 47, Chapter 140, O.S.L. 2005 (12A O.S. Supp.
21 2009, Section 2-503), is amended to read as follows:

22 Section 2-503. Manner of Seller's Tender of Delivery.

23 (1) Tender of delivery requires that the seller put and hold
24 conforming goods at the buyer's disposition and give the buyer any

1 notification reasonably necessary to enable ~~him~~ the buyer to take
2 delivery. The manner, time and place for tender are determined by
3 the agreement and this article, and in particular:

4 (a) tender must be at a reasonable hour, and if it is of goods
5 they must be kept available for the period reasonably necessary to
6 enable the buyer to take possession; but

7 (b) unless otherwise agreed the buyer must furnish facilities
8 reasonably suited to the receipt of the goods.

9 (2) ~~Where~~ If the case is within ~~the next section respecting~~
10 ~~shipment~~ Section 2-504 of this title, tender requires that the
11 seller comply with its provisions.

12 (3) ~~Where~~ If the seller is required to deliver at a particular
13 destination tender requires that ~~he~~ the seller comply with
14 subsection (1) and also in any appropriate case tender documents as
15 described in subsections (4) and (5) of this section.

16 (4) ~~Where~~ If goods are in the possession of a bailee and are to
17 be delivered without being moved.

18 (a) tender requires that the seller either tender a negotiable
19 document of title covering such goods or procure acknowledgment by
20 the bailee to the buyer of the buyer's right to possession of the
21 goods; but

22 (b) tender to the buyer of a nonnegotiable document of title or
23 of a ~~written direction to~~ record directing the bailee to deliver is
24 sufficient tender unless the buyer seasonably objects, and except as

1 provided in Article 9 of the Uniform Commercial Code receipt by the
2 bailee of notification of the buyer's rights fixes those rights as
3 against the bailee and all third persons; but risk of loss of the
4 goods and of any failure by the bailee to honor the nonnegotiable
5 document of title or to obey the direction remains on the seller
6 until the buyer has had a reasonable time to present the document or
7 direction, ~~and a refusal.~~ Refusal by the bailee to honor the
8 document or to obey the direction defeats the tender.

9 (5) ~~Where~~ If the contract requires the seller to deliver
10 documents

11 (a) ~~he~~ the seller must tender all such documents in correct
12 form, except as provided in this article with respect to bills of
13 lading in a set ~~(in subsection (2) of Section 2-323)~~ of this title;
14 and

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

18 SECTION 23. AMENDATORY 12A O.S. 2001, Section 2-504, is
19 amended to read as follows:

20 Section 2-504. Shipment by Seller.

21 ~~Where~~ If the seller is required or authorized to send the goods
22 to the buyer and the contract does not require ~~him~~ the seller to
23 deliver them at a particular destination, then unless otherwise
24 agreed ~~he~~ the seller must

- 1 (a) put the conforming goods in the possession of ~~such~~ a
2 carrier and make ~~such~~ a proper contract for their
3 transportation ~~as may be reasonable~~ having regard to
4 the nature of the goods and other circumstances of the
5 case; ~~and~~
- 6 (b) obtain and promptly deliver or tender in due form any
7 document necessary to enable the buyer to obtain
8 possession of the goods or otherwise required by the
9 agreement or by usage of trade; and
- 10 (c) promptly notify the buyer of the shipment.

11 Failure to notify the buyer under paragraph (c) of this section or
12 to make a proper contract under paragraph (a) is a ground for
13 rejection only if material delay or loss ensues.

14 SECTION 24. AMENDATORY 12A O.S. 2001, Section 2-505, as
15 amended by Section 48, Chapter 140, O.S.L. 2005 (12A O.S. Supp.
16 2009, Section 2-505), is amended to read as follows:

17 Section 2-505. Seller's Shipment Under Reservation.

18 (1) ~~Where~~ If the seller has identified goods to the contract by
19 or before shipment:

20 (a) ~~his~~ The seller's procurement of a negotiable bill of lading
21 to ~~his~~ the seller's own order or otherwise reserves in ~~him~~ the
22 seller a security interest in the goods. ~~His~~ The seller's
23 procurement of the bill to the order of a financing agency or of the
24

1 buyer indicates in addition only the seller's expectation of
2 transferring that interest to the person named.

3 (b) a nonnegotiable bill of lading to ~~himself or his~~ the seller
4 or the seller's nominee reserves possession of the goods as security
5 ~~but except in a case of conditional delivery~~ (. However, unless a
6 seller has a right to reclaim the goods under subsection (2) of
7 Section 2-507) of this title, a nonnegotiable bill of lading naming
8 the buyer as consignee reserves no security interest even ~~though~~ if
9 the seller retains possession or control of the bill of lading.

10 (2) ~~When~~ If shipment by the seller with reservation of a
11 security interest is in violation of the contract for sale it
12 constitutes an improper contract for transportation ~~within the~~
13 ~~preceding section~~ Section 2-504 of this title but impairs neither
14 the rights given to the buyer by shipment and identification of the
15 goods to the contract nor the seller's powers as a holder of a
16 negotiable document of title.

17 SECTION 25. AMENDATORY 12A O.S. 2001, Section 2-506, as
18 amended by Section 49, Chapter 140, O.S.L. 2005 (12A O.S. Supp.
19 2009, Section 2-506), is amended to read as follows:

20 Section 2-506. Rights of Financing Agency.

21 (1) A Except as otherwise provided in Article 5 of the Uniform
22 Commercial Code, a financing agency by paying or purchasing for
23 value a draft ~~which~~ that relates to a shipment of goods acquires to
24 the extent of the payment or purchase and in addition to its own

1 rights under the draft and any document of title securing it any
2 rights of the shipper in the goods including the right to stop
3 delivery and the shipper's right to have the draft honored by the
4 buyer.

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

10 SECTION 26. AMENDATORY 12A O.S. 2001, Section 2-507, is
11 amended to read as follows:

12 Section 2-507. Effect of Seller's Tender; Delivery on
13 Condition.

14 (1) Tender of delivery is a condition to the buyer's duty to
15 accept the goods and, unless otherwise agreed, to ~~his~~ the buyer's
16 duty to pay for them. Tender entitles the seller to acceptance of
17 the goods and to payment according to the contract.

18 (2) ~~Where~~ If payment is due and demanded on the delivery to the
19 buyer of goods or documents of title, ~~his right as against the~~
20 ~~seller to retain or dispose of them is conditional upon his making~~
21 ~~the payment due~~ the seller may reclaim the goods delivered upon a
22 demand made within a reasonable time after the seller discovers or
23 should have discovered that payment was not made.

24

1 (3) The seller's right to reclaim under subsection (2) of this
2 section is subject to the rights of a buyer in ordinary course of
3 business or other good-faith purchaser for value under Section 2-403
4 of this title.

5 SECTION 27. AMENDATORY 12A O.S. 2001, Section 2-508, is
6 amended to read as follows:

7 Section 2-508. Cure by Seller of Improper Tender or Delivery;
8 Replacement.

9 (1) ~~Where any~~ If the buyer rejects goods or a tender or of
10 delivery by the seller is rejected because nonconforming and the
11 time for performance has not yet expired, the seller may seasonably
12 notify the buyer of his intention to cure and may then within the
13 contract time make a conforming delivery under Section 2-601 or 2-
14 612 of this title or, except in a consumer contract, justifiably
15 revokes acceptance under paragraph (b) of subsection (1) of Section
16 2-608 of this title and the agreed time for performance has not
17 expired, a seller that has performed in good faith, upon seasonable
18 notice to the buyer and at the seller's own expense, may cure the
19 breach of contract by making a conforming tender of delivery within
20 the agreed time. The seller shall compensate the buyer for all the
21 buyer's reasonable expenses caused by the seller's breach of
22 contract and subsequent cure.

23 (2) ~~Where~~ If the buyer rejects a nonconforming goods or tender
24 which the seller had reasonable grounds to believe would be

1 ~~acceptable with or without money allowance the seller may if he~~
2 ~~seasonably notifies the buyer have a further reasonable time to~~
3 ~~substitute a conforming tender~~ of delivery under Section 2-601 or 2-
4 612 of this title or, except in a consumer contract, justifiably
5 revokes acceptance under paragraph (b) of subsection (1) of Section
6 2-608 of this title and the agreed time for performance has not
7 expired, a seller that has performed in good faith, upon reasonable
8 notice to the buyer and at the seller's own expense, may cure the
9 breach of contract, if the cure is appropriate and timely under the
10 circumstances, by making a tender of conforming goods. The seller
11 shall compensate the buyer for all the buyer's reasonable expenses
12 caused by the seller's breach of contract and subsequent cure.

13 SECTION 28. AMENDATORY 12A O.S. 2001, Section 2-509, as
14 amended by Section 50, Chapter 140, O.S.L. 2005 (12A O.S. Supp.
15 2009, Section 2-509), is amended to read as follows:

16 Section 2-509. Risk of Loss in the Absence of Breach.

17 (1) ~~Where~~ If the contract requires or authorizes the seller to
18 ship the goods by carrier:

19 (a) if it does not require ~~him~~ the seller to deliver them at a
20 particular destination, the risk of loss passes to the buyer when
21 the goods are ~~duly~~ delivered to the carrier even ~~though~~ if the
22 shipment is under reservation (Section 2-505 of this title); but

23 (b) if it does require ~~him~~ the seller to deliver them at a
24 particular destination and the conforming goods are there ~~duly~~

1 tendered while in the possession of the carrier, the risk of loss
2 passes to the buyer when the goods are there ~~duly~~ so tendered as to
3 enable the buyer to take delivery.

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

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

8 (b) on acknowledgment by the bailee to the buyer of the buyer's
9 right to possession of the goods; or

10 (c) after ~~his~~ the buyer's receipt of possession or control of a
11 nonnegotiable document of title or other direction to deliver in a
12 record, as provided in paragraph (b) of subsection (4) (b) of
13 Section 2-503 of this title.

14 (3) In any case not within subsection (1) or (2) of this
15 section, the risk of loss passes to the buyer on ~~his~~ the buyer's
16 receipt of the goods ~~if the seller is a merchant; otherwise the risk~~
17 ~~passes to the buyer on tender of delivery.~~

18 (4) The provisions of this section are subject to contrary
19 agreement of the parties and to ~~the provisions of this article on~~
20 ~~sale on approval (Section 2-327) and on effect of breach on risk of~~
21 ~~loss (Section 2-510)~~ Sections 2-327 and 2-510 of this title.

22 SECTION 29. AMENDATORY 12A O.S. 2001, Section 2-514, is
23 amended to read as follows:

24

1 Section 2-514. When Documents Deliverable on Acceptance; When
2 on Payment.

3 Unless otherwise agreed and except as otherwise provided in
4 Article 5 of the Uniform Commercial Code, documents against which a
5 draft is drawn are to be delivered to the drawee on acceptance of
6 the draft if it is payable more than three (3) days after
7 presentment; otherwise, only on payment.

8 SECTION 30. AMENDATORY 12A O.S. 2001, Section 2-602, is
9 amended to read as follows:

10 Section 2-602. (1) Rejection of goods must be within a
11 reasonable time after their delivery or tender. It is ineffective
12 unless the buyer seasonably notifies the seller.

13 (2) Subject to ~~the provisions of the two following sections on~~
14 ~~rejected goods (Section Sections 2-603 and, 2-604)~~, and subsection
15 (4) of Section 2-608 of this title:

16 (a) after rejection any exercise of ownership by the buyer
17 with respect to any commercial unit is wrongful as
18 against the seller; and

19 (b) if the buyer has before rejection taken physical
20 possession of goods in which ~~he~~ the buyer does not
21 have a security interest under ~~the provisions of this~~
22 ~~article (subsection (3) of Section 2-711)~~ of this
23 title, he the buyer is under a duty after rejection to
24 hold them with reasonable care at the seller's

1 disposition for a time sufficient to permit the seller
2 to remove them; but

3 (c) the buyer has no further obligations with regard to
4 goods rightfully rejected.

5 (3) The seller's rights with respect to goods wrongfully
6 rejected are governed by the provisions of this article on Seller's
7 remedies in general (Section 2-703 of this title).

8 SECTION 31. AMENDATORY 12A O.S. 2001, Section 2-605, as
9 amended by Section 51, Chapter 140, O.S.L. 2005 (12A O.S. Supp.
10 2009, Section 2-605), is amended to read as follows:

11 Section 2-605. Waiver of Buyer's Objections by Failure to
12 Particularize.

13 (1) ~~The~~ A buyer's failure to state in connection with rejection
14 a particular defect ~~which is ascertainable by reasonable inspection~~
15 or in connection with revocation of acceptance a defect that
16 justifies revocation precludes him the buyer from relying on the
17 unstated defect to justify rejection or ~~to establish breach~~
18 revocation of acceptance if the defect is ascertainable by
19 reasonable inspection:

20 (a) ~~where~~ if the seller had a right to cure the defect and
21 could have cured it if stated seasonably; or

22 (b) between merchants ~~when~~ if the seller has after rejection or
23 revocation of acceptance made a request in writing a record for a
24

1 full and final ~~written~~ statement in a record of all defects on which
2 the buyer proposes to rely.

3 (2) ~~Payment~~ A buyer's payment against documents tendered to the
4 buyer made without reservation of rights precludes recovery of the
5 payment for defects apparent in the documents.

6 SECTION 32. AMENDATORY 12A O.S. 2001, Section 2-606, is
7 amended to read as follows:

8 Section 2-606. What Constitutes Acceptance of Goods.

9 (1) Acceptance of goods occurs when the buyer:

10 (a) after a reasonable opportunity to inspect the goods
11 signifies to the seller that the goods are conforming
12 or that ~~he~~ the buyer will take or retain them in spite
13 of their nonconformity; or

14 (b) fails to make an effective rejection ~~(under subsection~~
15 ~~(1) of Section 2-602)~~ of this title, but such
16 acceptance does not occur until the buyer has had a
17 reasonable opportunity to inspect them; or

18 (c) subject to subsection (4) of Section 2-608 of this
19 title, does any act inconsistent with the seller's
20 ownership; ~~but if such act is wrongful as against the~~
21 ~~seller it is an acceptance only if ratified by him.~~

22 (2) Acceptance of a part of any commercial unit is acceptance
23 of that entire unit.

24

1 SECTION 33. AMENDATORY 12A O.S. 2001, Section 2-608, is
2 amended to read as follows:

3 Section 2-608. Revocation of Acceptance in Whole or in Part.

4 (1) ~~The~~ A buyer may revoke ~~his~~ acceptance of a lot or commercial
5 unit whose nonconformity substantially impairs its value to ~~him~~ the
6 buyer if ~~he~~ the buyer has accepted it

7 (a) on the reasonable assumption that its nonconformity
8 would be cured and it has not been seasonably cured;

9 or

10 (b) without discovery of ~~such~~ the nonconformity if ~~his~~ the
11 buyer's acceptance was reasonably induced either by
12 the difficulty of discovery before acceptance or by
13 the seller's assurances.

14 (2) Revocation of acceptance must occur within a reasonable
15 time after the buyer discovers or should have discovered the ground
16 for it and before any substantial change in condition of the goods
17 which is not caused by their own defects. ~~It~~ The revocation is not
18 effective until the buyer notifies the seller of it.

19 (3) A buyer ~~who~~ that so revokes has the same rights and duties
20 with regard to the goods involved as if ~~he~~ the buyer had rejected
21 them.

22 (4) If a buyer uses the goods after a rightful rejection or
23 justifiable revocation of acceptance, the following rules apply:

24

1 (a) any use by the buyer that is unreasonable under the
2 circumstances is wrongful as against the seller and is
3 an acceptance only if ratified by the seller;

4 (b) any use of the goods that is reasonable under the
5 circumstances is not wrongful as against the seller
6 and is not acceptance, but in an appropriate case the
7 buyer is obligated to the seller for the value of the
8 use to the buyer.

9 SECTION 34. AMENDATORY 12A O.S. 2001, Section 2-609, is
10 amended to read as follows:

11 Section 2-609. Right to Adequate Assurance of Performance.

12 (1) A contract for sale imposes an obligation on each party that
13 the other's expectation of receiving due performance will not be
14 impaired. ~~When~~ If reasonable grounds for insecurity arise with
15 respect to the performance of either party the other may in ~~writing~~
16 a record demand adequate assurance of due performance and until ~~he~~
17 the party receives such assurance may if commercially reasonable
18 suspend any performance for which ~~he~~ the party has not already
19 received the agreed return.

20 (2) Between merchants the reasonableness of grounds for
21 insecurity and the adequacy of any assurance offered shall be
22 determined according to commercial standards.

1 (3) Acceptance of any improper delivery or payment does not
2 prejudice the aggrieved party's right to demand adequate assurance
3 of future performance.

4 (4) After receipt of a justified demand failure to provide
5 within a reasonable time not exceeding thirty (30) days such
6 assurance of due performance as is adequate under the circumstances
7 of the particular case is a repudiation of the contract.

8 SECTION 35. AMENDATORY 12A O.S. 2001, Section 2-614, is
9 amended to read as follows:

10 Section 2-614. Substituted Performance.

11 (1) ~~Where~~ If without fault of either party the agreed berthing,
12 loading, or unloading facilities fail or an agreed type of carrier
13 becomes unavailable or the agreed manner of ~~delivery~~ performance
14 otherwise becomes commercially impracticable but a commercially
15 reasonable substitute is available, such substitute performance must
16 be tendered and accepted.

17 (2) If the agreed means or manner of payment fails because of
18 domestic or foreign governmental regulation, the seller may withhold
19 or stop delivery unless the buyer provides a means or manner of
20 payment which is commercially a substantial equivalent. If delivery
21 has already been taken, payment by the means or in the manner
22 provided by the regulation discharges the buyer's obligation unless
23 the regulation is discriminatory, oppressive or predatory.

1 SECTION 36. AMENDATORY 12A O.S. 2001, Section 2-615, is
2 amended to read as follows:

3 Section 2-615. Excuse by Failure of Presupposed Conditions.

4 Except ~~so far as~~ to the extent that a seller may have assumed a
5 greater obligation and subject to ~~the preceding section on~~
6 ~~substituted performance~~ Section 2-614 of this title:

7 (a) Delay in ~~delivery or nondelivery~~ performance or
8 nonperformance in whole or in part by a seller ~~who~~
9 that complies with paragraphs (b) and (c) of this
10 section is not a breach of ~~his~~ the seller's duty under
11 a contract for sale if performance as agreed has been
12 made impracticable by the occurrence of a contingency
13 the nonoccurrence of which was a basic assumption on
14 which the contract was made or by compliance in good
15 faith with any applicable foreign or domestic
16 governmental regulation or order whether or not it
17 later proves to be invalid.

18 (b) ~~Where~~ If the ~~clauses~~ causes mentioned in paragraph (a)
19 of this section affect only a part of the seller's
20 capacity to perform, ~~he~~ the seller must allocate
21 production and deliveries among ~~his~~ the seller's
22 customers but may at ~~his~~ the seller's option include
23 regular customers not then under contract as well as
24 ~~his~~ the seller's own requirements for further

1 manufacture. ~~He~~ The seller may so allocate in any
2 manner which is fair and reasonable.

3 (c) The seller must notify the buyer seasonably that there
4 will be delay or ~~nondelivery~~ nonperformance and, ~~when~~
5 if allocation is required under paragraph (b) of this
6 section, of the estimated quota thus made available
7 for the buyer.

8 SECTION 37. AMENDATORY 12A O.S. 2001, Section 2-616, is
9 amended to read as follows:

10 Section 2-616. Procedure on Notice Claiming Excuse.

11 (1) ~~Where the~~ If a buyer receives notification of a material or
12 indefinite delay or an allocation justified under ~~the preceding~~
13 ~~section~~ Section 2-615 of this title, the buyer may by ~~written~~
14 notification in a record to the seller as to any ~~delivery~~
15 performance concerned, and ~~where~~ if the prospective deficiency
16 substantially impairs the value of the whole contract under ~~the~~
17 ~~provisions of this article relating to breach of installment~~
18 ~~contracts~~ (Section 2-612) of this title, then also as to the whole~~;~~:

19 (a) terminate and thereby discharge any unexecuted portion
20 of the contract; or

21 (b) modify the contract by agreeing to take ~~his~~ the
22 buyer's available quota in substitution.

23 (2) If after receipt of ~~such~~ notification from the seller the
24 buyer fails ~~se~~ to modify the contract within a reasonable time not

1 exceeding thirty (30) days the contract ~~lapses~~ is terminated with
2 respect to any ~~deliveries~~ performance affected.

3 (3) The provisions of this section may not be negated by
4 agreement except in so far as the seller has assumed a greater
5 obligation under ~~the preceding section~~ Section 2-615 of this title.

6 SECTION 38. AMENDATORY 12A O.S. 2001, Section 2-702, is
7 amended to read as follows:

8 Section 2-702. Seller's Remedies on Discovery of Buyer's
9 Insolvency.

10 (1) ~~Where~~ If the seller discovers that the buyer ~~to be~~ is
11 insolvent ~~he,~~ the seller may refuse delivery except for cash
12 including payment for all goods theretofore delivered under the
13 contract, and stop delivery under ~~this article~~ (Section 2-705) of
14 this title.

15 (2) ~~Where~~ If the seller discovers that the buyer has received
16 goods on credit while insolvent he may reclaim the goods upon demand
17 made within ~~ten (10) days~~ a reasonable time after the buyer's
18 receipt, ~~but if misrepresentation of solvency has been made to the~~
19 ~~particular seller in writing within three (3) months before delivery~~
20 ~~the ten day limitation does not apply~~ of the goods. Except as
21 provided in this subsection the seller may not base a right to
22 reclaim goods on the buyer's fraudulent or innocent
23 misrepresentation of solvency or of intent to pay.

24

1 (3) The seller's right to reclaim under subsection (2) of this
2 section is subject to the rights of a buyer in ordinary course of
3 business or other ~~good faith~~ good-faith purchaser under ~~this article~~
4 ~~(Section 2-403)~~ of this title. Successful reclamation of goods
5 excludes all other remedies with respect to them.

6 SECTION 39. AMENDATORY 12A O.S. 2001, Section 2-704, is
7 amended to read as follows:

8 Section 2-704. Seller's Right to Identify Goods to the Contract
9 Notwithstanding Breach or to Salvage Unfinished Goods.

10 (1) An aggrieved seller ~~under the preceding section~~ may in an
11 appropriate case involving breach by the buyer:

12 (a) identify to the contract conforming goods not already
13 identified if at the time ~~he~~ the seller learned of the
14 breach ~~they~~ the goods are in ~~his~~ the seller's
15 possession or control;

16 (b) treat as the subject of resale goods ~~which~~ that have
17 demonstrably been intended for the particular contract
18 even ~~though~~ if those goods are unfinished.

19 (2) ~~Where~~ If the goods are unfinished an aggrieved seller may
20 in the exercise of reasonable commercial judgment for the purposes
21 of avoiding loss and of effective realization either complete the
22 manufacture and wholly identify the goods to the contract or cease
23 manufacture and resell for scrap or salvage value or proceed in any
24 other reasonable manner.

1 SECTION 40. AMENDATORY 12A O.S. 2001, Section 2-705, as
2 amended by Section 52, Chapter 140, O.S.L. 2005 (12A O.S. Supp.
3 2009, Section 2-705), is amended to read as follows:

4 Section 2-705. Seller's Stoppage of Delivery in Transit or
5 Otherwise.

6 (1) ~~The~~ A seller may stop delivery of goods in the possession
7 of a carrier or other bailee ~~when he~~ if the seller discovers the
8 buyer to be insolvent (Section 2-702 of this title) ~~and may stop~~
9 ~~delivery of carload, truckload, planeload or larger shipments of~~
10 ~~express or freight when~~ or if the buyer repudiates or fails to make
11 a payment due before delivery or if for any other reason the seller
12 has a right to withhold or reclaim the goods.

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

14 (a) receipt of the goods by the buyer; ~~or~~

15 (b) acknowledgement to the buyer by any bailee of the goods
16 except a carrier that the bailee holds the goods for the buyer; ~~or~~

17 (c) such acknowledgment to the buyer by a carrier by reshipment
18 or as a warehouse; or

19 (d) negotiation to the buyer of any negotiable document of
20 title covering the goods.

21 (3) (a) To stop delivery the seller must so notify as to enable
22 the bailee by reasonable diligence to prevent delivery of the goods.

23

24

1 (b) After such notification the bailee must hold and deliver
2 the goods according to the directions of the seller but the seller
3 is liable to the bailee for any ensuing charges or damages.

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

7 (d) A carrier ~~who~~ that has issued a nonnegotiable bill of
8 lading is not obliged to obey a notification to stop received from a
9 person other than the consignor.

10 SECTION 41. AMENDATORY 12A O.S. 2001, Section 2-706, is
11 amended to read as follows:

12 Section 2-706. Seller's Resale Including Contract for Resale.

13 (1) ~~Under the conditions stated in Section 2-703 on seller's~~
14 ~~remedies~~ In an appropriate case involving breach by the buyer, the
15 seller may resell the goods concerned or the undelivered balance
16 thereof. ~~Where~~ If the resale is made in good faith and in a
17 commercially reasonable manner the seller may recover the difference
18 between the contract price and the resale price ~~and the contract~~
19 ~~price~~ together with any incidental or consequential damages allowed
20 ~~under the provisions of this article (Section 2-710)~~ of this title,
21 but less expenses saved in consequence of the buyer's breach.

22 (2) Except as otherwise provided in subsection (3) of this
23 section or unless otherwise agreed resale may be at public or
24 private sale including sale by way of one or more contracts to sell

1 or of identification to an existing contract of the seller. Sale
2 may be as a unit or in parcels and at any time and place and on any
3 terms but every aspect of the sale including the method, manner,
4 time, place and terms must be commercially reasonable. The resale
5 must be reasonably identified as referring to the broken contract,
6 but it is not necessary that the goods be in existence or that any
7 or all of them have been identified to the contract before the
8 breach.

9 (3) ~~Where~~ If the resale is at private sale the seller must give
10 the buyer reasonable notification of ~~his~~ an intention to resell.

11 (4) ~~Where~~ If the resale is at public sale:

12 (a) only identified goods ~~can~~ may be sold ~~except where~~
13 unless there is a recognized market for a public sale
14 of futures in goods of the kind; ~~and~~

15 (b) it must be made at a usual place or market for public
16 sale if one is reasonably available and except in the
17 case of goods which are perishable or threaten to
18 decline in value speedily the seller must give the
19 buyer reasonable notice of the time and place of the
20 resale; ~~and~~

21 (c) if the goods are not to be within the view of those
22 attending the sale the notification of sale must state
23 the place where the goods are located and provide for
24

1 their reasonable inspection by prospective bidders;
2 and

3 (d) the seller may buy.

4 (5) A purchaser ~~who~~ that buys in good faith at a resale takes
5 the goods free of any rights of the original buyer even ~~though~~ if
6 the seller fails to comply with one or more of the requirements of
7 this section.

8 (6) The seller is not accountable to the buyer for any profit
9 made on any resale. A person in the position of a seller (Section
10 2-707 of this title) or a buyer who has rightfully rejected or
11 justifiably revoked acceptance must account for any excess over the
12 amount of ~~his~~ the buyer's security interest, ~~as hereinafter defined~~
13 ~~{under subsection (3) of Section 2-711}~~ of this title.

14 SECTION 42. AMENDATORY 12A O.S. 2001, Section 2-707, is
15 amended to read as follows:

16 Section 2-707. Person in the Position of a Seller.

17 (1) A "person in the position of a seller" includes as against a
18 principal an agent who has paid or become responsible for the price
19 of goods on behalf of ~~his~~ the principal or ~~anyone who~~ a person that
20 otherwise holds a security interest or other right in goods similar
21 to that of a seller.

22 (2) A person in the position of a seller ~~may as provided in this~~
23 ~~article withhold or stop delivery (Section 2-705) and resell~~

1 ~~(Section 2-706) and recover incidental damages (Section 2-710) has~~
2 the same remedies as a seller under this article.

3 SECTION 43. AMENDATORY 12A O.S. 2001, Section 2-708, is
4 amended to read as follows:

5 Section 2-708. Seller's Damages for Nonacceptance or
6 Repudiation.

7 (1) Subject to subsection (2) of this section and to ~~the~~
8 ~~provisions of this article with respect to proof of market price~~
9 ~~(Section 2-723),~~ of this title;

10 (a) the measure of damages for nonacceptance or
11 repudiation by the buyer is the difference between the
12 contract price and the market price at the time and
13 place for tender and the unpaid contract price
14 together with any incidental or consequential damages
15 provided in this article (Section 2-710) of this
16 title, but less expenses saved in consequence of the
17 buyer's breach; and

18 (b) the measure of damages for repudiation by the buyer is
19 the difference between the contract price and the
20 market price at the place for tender at the expiration
21 of a commercially reasonable time after the seller
22 learned of the repudiation, but no later than the time
23 stated in paragraph (a) of this subsection, together
24 with any incidental or consequential damages provided

1 in Section 2-710 of this title, less expenses saved in
2 consequence of the buyer's breach.

3 (2) If the measure of damages provided in subsection (1) of this
4 section or in Section 2-706 of this title is inadequate to put the
5 seller in as good a position as performance would have done ~~then,~~
6 the measure of damages is the profit (including reasonable overhead)
7 ~~which~~ that the seller would have made from full performance by the
8 buyer, together with any incidental or consequential damages
9 provided in this article (Section 2-710 of this title), ~~due~~
10 ~~allowance for costs reasonably incurred and due credit for payments~~
11 ~~or proceeds of resale.~~

12 SECTION 44. AMENDATORY 12A O.S. 2001, Section 2-709, is
13 amended to read as follows:

14 Section 2-709. Action for the Price.

15 (1) ~~When~~ If the buyer fails to pay the price as it becomes due,
16 the seller may recover, together with any incidental or
17 consequential damages under ~~the next section~~ Section 2-710 of this
18 title, the price:

19 (a) of goods accepted or of conforming goods lost or
20 damaged within a commercially reasonable time after
21 risk of their loss has passed to the buyer; and

22 (b) of goods identified to the contract if the seller is
23 unable after reasonable effort to resell them at a
24

1 reasonable price or the circumstances reasonably
2 indicate that such effort will be unavailing.

3 (2) ~~Where~~ If the seller sues for the price ~~he~~, the seller must
4 hold for the buyer any goods ~~which~~ that have been identified to the
5 contract and are still in ~~his~~ the seller's control ~~except that~~.
6 However, if resale becomes possible ~~he~~, the seller may resell them
7 at any time prior to the collection of the judgment. The net
8 proceeds of any such resale must be credited to the buyer and the
9 payment of the judgment entitles ~~him~~ the buyer to any goods not
10 resold.

11 (3) After the buyer has wrongfully rejected or revoked
12 acceptance of the goods or has failed to make a payment due or has
13 repudiated (Section 2-610 of this title), a seller ~~who~~ that is held
14 not entitled to the price under this section shall nevertheless be
15 awarded damages for nonacceptance under ~~the preceding section~~
16 Section 2-708 of this title.

17 SECTION 45. AMENDATORY 12A O.S. 2001, Section 2-710, is
18 amended to read as follows:

19 Section 2-710. Seller's Incidental Damages.

20 (1) Incidental damages to an aggrieved seller include any
21 commercially reasonable charges, expenses or commissions incurred in
22 stopping delivery, in the transportation, care and custody of goods
23 after the buyer's breach, in connection with return or resale of the
24 goods or otherwise resulting from the breach.

1 (2) Consequential damages resulting from the buyer's breach
2 include any loss resulting from general or particular requirements
3 and needs of which the buyer at the time of contracting had reason
4 to know and which could not reasonably be prevented by resale or
5 otherwise.

6 (3) In a consumer contract, a seller may not recover
7 consequential damages from a consumer unless a court under the
8 circumstances in the case determines that this preclusion works an
9 undue hardship upon the seller; in which case the court may award
10 such damages as are reasonable.

11 SECTION 46. AMENDATORY 12A O.S. 2001, Section 2-713, is
12 amended to read as follows:

13 Section 2-713. Buyer's Damages for Nondelivery or Repudiation.

14 (1) Subject to ~~the provisions of this article with respect to~~
15 ~~proof of market price (Section 2-723)~~ of this title, if the seller
16 wrongfully fails to deliver or repudiates or the buyer rightfully
17 rejects or justifiably revokes acceptance:

18 (a) the measure of damages for nondelivery or repudiation
19 in the case of wrongful failure to deliver by the
20 seller or rightful rejection or justifiable revocation
21 of acceptance by the buyer is the difference between
22 the market price at the time when the buyer learned of
23 the breach for tender under the contract and the
24 contract price together with any incidental and or

1 consequential damages ~~provided in this article~~ (under
2 Section 2-715) of this title, but less expenses saved
3 in consequence of the seller's breach; and

4 (b) the measure of damages for repudiation by the seller
5 is the difference between the market price at the
6 expiration of a commercially reasonable time after the
7 buyer learned of the repudiation, but no later than
8 the time stated in paragraph (a) of this subsection,
9 and the contract price together with any incidental or
10 consequential damages provided in this article
11 (Section 2-715 of this title), less expenses saved in
12 consequence of the seller's breach.

13 (2) Market price is to be determined as of the place for tender
14 or, in cases of rejection after arrival or revocation of acceptance,
15 as of the place of arrival.

16 SECTION 47. AMENDATORY 12A O.S. 2001, Section 2-716, is
17 amended to read as follows:

18 Section 2-716. ~~Buyer's Right to Specific Performance or;~~
19 Replevin.

20 (1) Specific performance may be decreed ~~where~~ if the goods are
21 unique or in other proper circumstances. In a contract other than a
22 consumer contract, specific performance may be decreed if the
23 parties have agreed to that remedy. However, even if the parties
24 agree to specific performance, specific performance may not be

1 decreed if the breaching party's sole remaining contractual
2 obligation is the payment of money.

3 (2) The decree for specific performance may include such terms
4 and conditions as to payment of the price, damages, or other relief
5 as the court may deem just.

6 (3) The buyer has a right of replevin or similar remedy for
7 goods identified to the contract if after reasonable effort ~~he~~ the
8 buyer is unable to effect cover for such goods or the circumstances
9 reasonably indicate that such effort will be unavailing or if the
10 goods have been shipped under reservation and satisfaction of the
11 security interest in them has been made or tendered. ~~In the case of~~
12 ~~goods bought for personal, family, or household purposes, the~~
13 ~~buyer's right of replevin vests upon acquisition of a special~~
14 ~~property, even if the seller had not then repudiated or failed to~~
15 ~~deliver.~~

16 SECTION 48. AMENDATORY 12A O.S. 2001, Section 2-718, is
17 amended to read as follows:

18 Section 2-718. Liquidation or Limitation of Damages; Deposits.

19 (1) Damages for breach by either party may be liquidated in the
20 agreement but only at an amount ~~which~~ that is reasonable in the
21 light of the anticipated or actual harm caused by the breach and, in
22 a consumer contract, the difficulties of proof of loss, and the
23 inconvenience or nonfeasibility of otherwise obtaining an adequate
24 remedy. ~~A term fixing unreasonably large liquidated damages is void~~

1 ~~as a penalty~~ Section 2-719 of this title determines the
2 enforceability of a term that limits but does not liquidate damages.

3 (2) ~~Where~~ If the seller justifiably withholds delivery of goods
4 or stops performance because of the buyer's breach or insolvency,
5 the buyer is entitled to restitution of any amount by which the sum
6 of ~~his~~ the buyer's payments exceeds

7 (a) the amount to which the seller is entitled by virtue
8 of terms liquidating the seller's damages in
9 accordance with subsection (1), ~~or~~

10 (b) ~~in the absence of such terms, twenty percent (20%) of~~
11 ~~the value of the total performance for which the buyer~~
12 ~~is obligated under the contract or Five Hundred~~
13 ~~Dollars (\$500.00), whichever is smaller~~ of this
14 section.

15 (3) The buyer's right to restitution under subsection (2) of
16 this section is subject to offset to the extent that the seller
17 establishes:

18 (a) a right to recover damages under the provisions of
19 this article other than subsection (1), of this
20 section; and

21 (b) the amount or value of any benefits received by the
22 buyer directly or indirectly by reason of the
23 contract.

24

1 (4) ~~Where~~ if a seller has received payment in goods their
2 reasonable value or the proceeds of their resale shall be treated as
3 payments for the purposes of subsection (2), ~~but~~ of this section.
4 However, if the seller has notice of the buyer's breach before
5 reselling goods received in part performance, his resale is subject
6 to the conditions ~~laid down in~~ of this article on resale by an
7 aggrieved seller (Section 2-706 of this title).

8 SECTION 49. AMENDATORY 12A O.S. 2001, Section 2-723, is
9 amended to read as follows:

10 Section 2-723. Proof of Market Price: Time and Place.

11 (1) ~~If an action based on anticipatory repudiation comes to~~
12 ~~trial before the time for performance with respect to some or all of~~
13 ~~the goods, any damages based on market price (Section 2-708 or~~
14 ~~Section 2-713) shall be determined according to the price of such~~
15 ~~goods prevailing at the time when the aggrieved party learned of the~~
16 ~~repudiation.~~

17 ~~(2)~~ If evidence of a price prevailing at the times or places
18 described in this article is not readily available the price
19 prevailing within any reasonable time before or after the time
20 described or at any other place ~~which~~ that in commercial judgment or
21 under usage of trade would serve as a reasonable substitute for the
22 one described may be used, making any proper allowance for the cost
23 of transporting the goods to or from ~~such~~ the other place.

24

1 ~~(b)~~ "Cancellation" occurs when either party puts an end to
2 the lease contract for default by the other party.

3 ~~(e)~~ (b) "Commercial unit" means such a unit of goods as by
4 commercial usage is a single whole for purposes of
5 lease and division of which materially impairs its
6 character or value on the market or in use. A
7 commercial unit may be a single article, as a machine,
8 or a set of articles, as a suite of furniture or a
9 line of machinery, or a quantity, as a gross or
10 carload, or any other unit treated in use or in the
11 relevant market as a single whole.

12 ~~(d)~~ (c) "Conforming" goods or performance under a lease
13 contract means goods or performance that are in
14 accordance with the obligations under the lease
15 contract.

16 (d) "Conspicuous", with reference to a term, means so
17 written, displayed, or presented that a reasonable
18 person against which it is to operate ought to have
19 noticed it. A term in an electronic record intended
20 to evoke a response by an electronic agent is
21 conspicuous if it is presented in a form that would
22 enable a reasonably configured electronic agent to
23 take it into account or react to it without review of
24 the record by an individual. Whether a term is

1 "conspicuous" or not is a decision for the court.

2 Conspicuous terms include the following:

3 (i) for a person:

4 (A) a heading in capital equal to or greater in
5 size than the surrounding text, or in
6 contrasting type, font, or color to the
7 surrounding text of the same or lesser size;
8 and

9 (B) language in the body of a record or display
10 in larger type than the surrounding text, or
11 in contrasting type, font, or color to the
12 surrounding text of the same size by symbols
13 or other marks that call attention to the
14 language; and

15 (ii) for a person or an electronic agent, a term that
16 is so placed in a record or display that the
17 person or electronic agent cannot proceed without
18 taking action with respect to the particular
19 term.

20 (e) "Consumer" means an individual who leases or contracts
21 to lease goods that, at the time of contracting, are
22 intended by the individual to be used primarily for
23 personal, family, or household purposes.

1 (f) "Consumer lease" means a lease that a lessor regularly
2 engaged in the business of leasing or selling makes to
3 a lessee ~~who is an individual and who takes under the~~
4 ~~lease primarily for a personal, family, or household~~
5 ~~purpose, if the total payments to be made under the~~
6 ~~lease contract, excluding payments for options to~~
7 ~~renew or buy, do not exceed Forty five Thousand~~
8 ~~Dollars (\$45,000.00) consumer.~~

9 ~~(f)~~ (g) "Delivery" means the voluntary transfer of physical
10 possession or control of goods.

11 (h) "Electronic" means relating to technology having
12 electrical, digital, magnetic, wireless, optical,
13 electromagnetic, or similar capabilities.

14 (i) "Electronic agent" means a computer program or an
15 electronic or other automated means used independently
16 to initiate an action or respond to electronic records
17 or performances in whole or in part, without review or
18 action by an individual.

19 (j) "Electronic record" means a record created, generated,
20 sent, communicated, received, or stored by electronic
21 means.

22 (k) "Fault" means wrongful act, omission, breach, or
23 default.

24 ~~(g)~~ (l) "Finance lease" means a lease with respect to which:

- 1 (i) the lessor does not select, manufacture or supply
2 the goods;
- 3 (ii) the lessor acquires the goods or the right to
4 possession and use of the goods in connection
5 with the lease or, in the case of goods that have
6 been leased previously by the lessor and are not
7 being leased to a consumer, in connection with
8 another lease; and
- 9 (iii) one of the following occurs:
- 10 (A) the lessee receives a copy of the ~~contract~~
11 agreement by which the lessor acquired, or
12 proposes to acquire, the goods or the right
13 to possession and use of the goods before
14 signing the lease ~~contract agreement~~ agreement;
- 15 (B) the lessee's approval of the ~~contract~~ by
16 agreement or of the general contractual
17 terms under which the lessor acquired or
18 proposes to acquire the goods or the right
19 to possession and use of the goods is a
20 condition to effectiveness of the lease
21 contract;
- 22 (C) the lessee, before signing the lease
23 ~~contract agreement~~ agreement, receives an accurate and
24 complete statement designating the promises

1 and warranties, and any disclaimers of
2 warranties, limitations or modifications of
3 remedies, or liquidated damages, including
4 those of a third party, such as the
5 manufacturer of the goods, provided to the
6 lessor by the person supplying the goods in
7 connection with or as part of the contract
8 by which the lessor acquired the goods or
9 the right to possession and use of the
10 goods; or

11 (D) if the lease is not a consumer lease, ~~the~~
12 ~~lessor,~~ before the lessee signs the lease
13 ~~contract~~ agreement, the lessor informs the
14 lessee in ~~writing~~ (a) a record:

15 (I) of the identity of the person supplying
16 the goods to the lessor, unless the
17 lessee has selected that person and
18 directed the lessor to acquire the
19 goods or the right to possession and
20 use of the goods from that person, ~~(b);~~

21 (II) that the lessee is entitled under this
22 article to the promises and warranties,
23 including those of any third party,
24 provided to the lessor by the person

1 supplying the goods in connection with
2 or as part of the contract by which the
3 lessor acquired the goods or the right
4 to possession and use of the goods,i
5 and ~~(e)~~

6 (III) that the lessee may communicate with
7 the person supplying the goods to the
8 lessor and receive an accurate and
9 complete statement of those promises
10 and warranties, including any
11 disclaimers and limitations of them, or
12 a statement of remedies.

13 (m) [Reserved]

14 ~~(h)~~ (n) "Goods" means all things that are movable at the time
15 of identification to the lease ~~contract~~ agreement, or
16 that are fixtures (Section 2A-309 of this title). The
17 term includes future goods, specially manufactured
18 goods, and the unborn young of animals. The term does
19 not include information, the money in which the price
20 is to be paid, investment securities under Article 8
21 of the Uniform Commercial Code, minerals or the like,
22 including oil and gas, before extraction, or choses in
23 action.

1 ~~article and~~ determined by the Uniform Commercial Code
2 as supplemented by any other applicable rules of law.
3 Unless the context clearly indicates otherwise, the
4 term includes a sublease contract.

5 ~~(m)~~ (s) "Leasehold interest" means the interest of the lessor
6 or the lessee under a lease contract.

7 ~~(n)~~ (t) "Lessee" means a person ~~who~~ that acquires the right to
8 possession and use of goods under a lease. Unless the
9 context clearly indicates otherwise, the term includes
10 a sublessee.

11 ~~(o)~~ (u) "Lessee in the ordinary course of business" means a
12 person ~~who~~ that leases goods in good faith ~~and,~~
13 without knowledge that the lease ~~to him is in~~
14 ~~violation~~ violates the rights of ~~the ownership rights~~
15 ~~or security interest or leasehold interest of a third~~
16 ~~party in the goods leases~~ another person, and in the
17 ordinary course from a person, other than a
18 pawnbroker, in the business of selling or leasing
19 goods of that kind ~~but does not include a pawnbroker.~~
20 ~~"Leasing"~~ A person leases in ordinary course if the
21 lease to the person comports with the usual or
22 customary practices in the kind of business in which
23 the lessor is engaged or with the lessor's own usual
24 or customary practices. A lessee in ordinary course

1 of business may be lease for cash or, by exchange of
2 other property, or on secured or unsecured credit, and
3 ~~includes acquiring~~ may acquire goods or documents of
4 title under a preexisting lease contract ~~but does not~~
5 ~~include.~~ Only a lessee that takes possession of the
6 goods or has a right to recover the goods from the
7 lessor under this article may be a lessee in ordinary
8 course of business. A person that acquires goods in a
9 transfer in bulk or as security for or in total or
10 partial satisfaction of a money debt is not a lessee
11 in ordinary course of business.

12 ~~(p)~~ (v) "Lessor" means a person ~~who~~ that transfers the right
13 to possession and use of goods under a lease. Unless
14 the context clearly indicates otherwise, the term
15 includes a sublessor.

16 ~~(q)~~ (w) "Lessor's residual interest" means the lessor's
17 interest in the goods after expiration, termination,
18 or cancellation of the lease contract.

19 ~~(r)~~ (x) "Lien" means a charge against or interest in goods to
20 secure payment of a debt or performance of an
21 obligation, ~~but the.~~ The term does not include a
22 security interest.

23 ~~(s)~~ (y) "Lot" means a parcel or a single article that is the
24 subject matter of a separate lease or delivery,

1 whether or not it is sufficient to perform the lease
2 contract.

3 ~~(t)~~ (z) "Merchant lessee" means a lessee that is a merchant
4 with respect to goods of the kind subject to the
5 lease.

6 ~~(u)~~ "~~Present value~~" means ~~the amount as of a date certain~~
7 ~~of one or more sums payable in the future, discounted~~
8 ~~to the date certain. The discount is determined by~~
9 ~~the interest rate specified by the parties if the rate~~
10 ~~was not manifestly unreasonable at the time the~~
11 ~~transaction was entered into; otherwise, the discount~~
12 ~~is determined by a commercially reasonable rate that~~
13 ~~takes into account the facts and circumstances of each~~
14 ~~case at the time the transaction was entered into.~~

15 ~~(v)~~ "~~Purchase~~" includes ~~taking by sale, lease, mortgage,~~
16 ~~security interest, pledge, gift, or any other~~
17 ~~voluntary transaction creating an interest in goods.~~

18 ~~(w)~~ (aa) [Reserved]

19 (bb) [Reserved]

20 (cc) [Reserved]

21 (dd) "Sign" means, with present intent to authenticate or
22 adopt a record:

23 (i) to execute or adopt a tangible symbol; or

1 (ii) to attach to or logically associate with the
2 record an electronic sound, symbol or process.

3 (ee) "Sublease" means a lease of goods the right to
4 possession and use of which was acquired by the lessor
5 as a lessee under an existing lease.

6 ~~(x)~~ (ff) "Supplier" means a person from ~~whom~~ which a lessor
7 buys or leases goods to be leased under a finance
8 lease.

9 ~~(y)~~ (gg) "Supply contract" means a contract under which a
10 lessor buys or leases goods to be leased.

11 ~~(z)~~ (hh) "Termination" occurs when either party pursuant to a
12 power created by agreement or law puts an end to the
13 lease contract otherwise than for default.

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

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

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

20 "Encumbrance". Paragraph (e) of subsection (1) of Section
21 2A-309 of this title.

22 "Fixtures". Paragraph (a) of subsection (1) of Section 2A-
23 309 of this title.

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

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

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

7 ~~"Account". Paragraph (2) of subsection (a) of Section~~
8 ~~1-9-102 of this title.~~

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

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

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

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

17 ~~"Document". Paragraph (30) of subsection (a) of Section~~
18 ~~1-9-102 of this title.~~

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

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

23 ~~"Instrument". Paragraph (47) of subsection (a) of Section~~
24 ~~1-9-102 of this title.~~

1 "Letter of credit". Paragraph 10 of subsection (a) of
2 Section 5-102 of this title.

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

4 ~~"Mortgage". Paragraph (55) of subsection (a) of Section~~
5 ~~1-9-102 of this title.~~

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

8 "Receipt of goods". ~~Subsection (e)~~ Paragraph (c) of
9 ~~paragraph~~ subsection (1) of Section 2-103 of this
10 title.

11 "Sale". ~~Paragraph~~ Subsection (1) of Section 2-106 of this
12 title.

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

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

15 "Seller". Subparagraph ~~(d)~~ of paragraph (1) of Section 2-
16 103 of this title.

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

20 SECTION 51. AMENDATORY 12A O.S. 2001, Section 2A-211, is
21 amended to read as follows:

22 Section 2A-211.

23 WARRANTIES AGAINST INTERFERENCE AND AGAINST
24 INFRINGEMENT; LESSEE'S OBLIGATION AGAINST

1 INFRINGEMENT

2 (1) ~~There is in a lease contract a warranty that for the lease~~
3 ~~term no person holds a claim to or interest in the goods that arose~~
4 ~~from an act or omission of the lessor, other than a claim by way of~~
5 ~~infringement or the like, which will interfere with the lessee's~~
6 ~~enjoyment of its leasehold interest.~~

7 (2) Except in a finance lease ~~there is,~~ a lessor in a lease
8 contract by a lessor who is a merchant regularly dealing in goods of
9 the kind a warranty that the goods are delivered free of the
10 rightful claim of warrants that, except for claims by any person by
11 way of infringement or the like, for the duration of the lease no
12 person holds:

13 a. a claim to or interest in the goods not attributable
14 to the lessee's own act or omission which will
15 interfere with the lessee's enjoyment of its leasehold
16 interest; or

17 b. a colorable claim to or interest in the goods which
18 will unreasonably expose the lessee to litigation.

19 (2) A finance lessor warrants that, except for claims by way of
20 infringement or the like, for the duration of the lease no person
21 holds:

22 (a) a claim or interest in the goods that arose from an
23 act or omission of the lessor which will interfere
24

1 with the lessee's enjoyment of its leasehold interest;
2 or

3 (b) a colorable claim to or interest in the goods that
4 arose from an act or omission of the lessor which will
5 unreasonably expose the lessee to litigation.

6 (3) A Except in a finance lease, a lessor that is a merchant
7 regularly dealing in goods of the kind warrants that the goods will
8 be delivered free of the rightful claim of a third party by way of
9 infringement or the like. However, a lessee who that furnishes
10 specifications to a lessor or a supplier ~~shall hold~~ holds the lessor
11 and the supplier harmless against any claim ~~by way~~ of infringement
12 or the like that arises out of compliance with the specifications.

13 (4) A warranty under this section may be excluded or modified
14 only by specific language that is conspicuous and contained in a
15 record, or by circumstances, including course of performance, course
16 of dealing, or usage of trade, that give the lessee reason to know
17 that the lessor is leasing the goods subject to a claim or interest
18 of any person, or that it is leasing subject to any claims of
19 infringement or the like.

20 SECTION 52. AMENDATORY 12A O.S. 2001, Section 2A-303, is
21 amended to read as follows:

22 Section 2A-303.

23 ALIENABILITY OF PARTY'S INTEREST UNDER LEASE CONTRACT

24 OR OF LESSOR'S RESIDUAL INTEREST IN GOODS;

1 DELEGATION OF PERFORMANCE; TRANSFER OF RIGHTS

2 (1) As used in this section, "creation of a security interest"
3 includes the sale of a lease contract that is subject to Article 9
4 of this title, ~~Secured Transactions~~, by reason of paragraph (3) of
5 subsection (a) of Section 1-9-109 of this title.

6 (2) ~~Except as provided in~~ Subject to subsection (3) of this
7 section and except as provided in Section 1-9-407 of this title or
8 as otherwise agreed, a provision in a lease agreement which (i)
9 prohibits the voluntary or involuntary transfer, including a
10 transfer by sale, sublease, creation or enforcement of a security
11 interest, or attachment, levy, or other judicial process, of an
12 interest of a party under the lease contract or of the lessor's
13 residual interest in the goods, or (ii) makes such a transfer an
14 event of default, gives rise to the rights and remedies provided in
15 subsection (4) of this section, ~~but~~. However, a transfer that is
16 prohibited or is an event of default under the lease agreement is
17 otherwise effective.

18 (3) A provision in a lease agreement which (i) prohibits a
19 transfer of a right to damages for default with respect to the whole
20 lease contract or of a right to payment arising out of the
21 transferor's due performance of the transferor's entire obligation,
22 or (ii) makes such a transfer an event of default, is not
23 enforceable, and such a transfer is not a transfer that materially
24 impairs the prospect of obtaining return performance by, materially

1 changes the duty of, or materially increases the burden of risk
2 imposed on, the other party to the lease contract within ~~the purview~~
3 ~~of~~ subsection (4) of this section.

4 (4) Subject to subsection (3) of this section and Section
5 1-9-407 of this ~~article~~ title:

6 (a) if a transfer is made ~~which~~ that is made an event of
7 default under a lease agreement, the party to the
8 lease contract not making the transfer, unless that
9 party waives the default or otherwise agrees, has the
10 rights and remedies described in subsection (2) of
11 Section 2A-501 of this title; or

12 (b) if paragraph (a) of this subsection is not applicable
13 and if a transfer is made that (i) is prohibited under
14 a lease agreement or (ii) materially impairs the
15 prospect of obtaining return performance by,
16 materially changes the duty of, or materially
17 increases the burden or risk imposed on, the other
18 party to the lease contract, unless the party not
19 making the transfer agrees at any time to the transfer
20 in the lease contract or otherwise, then, except as
21 limited by contract, (i) the transferor is liable to
22 the party not making the transfer for damages caused
23 by the transfer to the extent that the damages could
24 not reasonably be prevented by the party not making

1 the transfer and (ii) a court having jurisdiction may
2 grant other appropriate relief, including cancellation
3 of the lease contract or an injunction against the
4 transfer.

5 (5) A transfer of "the lease" or of "all my rights under the
6 lease", or a transfer in similar general terms, is a transfer of
7 rights and, unless the language or the circumstances, as in a
8 transfer for security, indicate the contrary, the transfer is a
9 delegation of duties by the transferor to the transferee.

10 Acceptance by the transferee constitutes a promise by the transferee
11 to perform those duties. The promise is enforceable by either the
12 transferor or the other party to the lease contract.

13 (6) Unless otherwise agreed by the lessor and the lessee, a
14 delegation of performance does not relieve the transferor as against
15 the other party of any duty to perform or of any liability for
16 default.

17 (7) In a consumer lease, to prohibit the transfer of an
18 interest of a party under the lease contract or to make a transfer
19 an event of default, the language must be specific, by a ~~writing~~
20 record, and conspicuous.

21 SECTION 53. AMENDATORY 12A O.S. 2001, Section 2A-506, is
22 amended to read as follows:

23 Section 2A-506.

24 STATUTE OF LIMITATIONS

1 (1) An action for default under a lease contract, including
2 breach of warranty or indemnity, must be commenced within four (4)
3 years after the cause of action accrued. ~~By~~ Except in a consumer
4 lease or an action for indemnity, the original lease ~~contract~~ the
5 ~~parties~~ agreement may reduce the period of limitation to not less
6 than one (1) year.

7 (2) A cause of action for default accrues when the act or
8 omission on which the default or breach of warranty is based is or
9 should have been discovered by the aggrieved party, or when the
10 default occurs, whichever is later. A cause of action for indemnity
11 accrues when the act or omission on which the claim for indemnity is
12 based is or should have been discovered by the indemnified party,
13 whichever is later.

14 (3) If an action commenced within the time limited by
15 subsection (1) of this section is so terminated as to leave
16 available a remedy by another action for the same default or breach
17 of warranty or indemnity, the other action may be commenced after
18 the expiration of the time limited and within six (6) months after
19 the termination of the first action unless the termination resulted
20 from voluntary discontinuance or from dismissal for failure or
21 neglect to prosecute.

22 (4) This section does not alter the law on tolling of the
23 statute of limitations nor does it apply to causes of action that
24 have accrued before this article becomes effective.

1 SECTION 54. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 Application of Existing Relations.

4 (1) This act applies to a transaction within its scope that is
5 entered into on or after January 1, 2011.

6 (2) This act does not apply to a transaction that is entered
7 into before January 1, 2011, even if the transaction would be
8 subject to this act if it had been entered into after January 1,
9 2011.

10 (3) This act does not apply to a right of action that accrued
11 before January 1, 2011.

12 SECTION 55. NEW LAW A new section of law not to be
13 codified in the Oklahoma Statutes reads as follows:

14 Savings Clause.

15 A transaction entered into before January 1, 2011, and the
16 rights, obligations, and interests flowing from that transaction,
17 are governed by any statute or other law amended or repealed by this
18 act as if amendment or repeal had not occurred and may be
19 terminated, completed, consummated, or enforced under that statute
20 or other law.

21 SECTION 56. This act shall become effective January 1, 2011.

22

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