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SENATE FILE 2368  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 2318)

Passed Senate, Date 3/27/96 (P.1082) Passed House, Date 4/10/96  
Vote: Ayes 49 Nays 0 Vote: Ayes 95 Nays 0  
Approved 4-18-96

A BILL FOR

1 An Act providing for the regulation of investment securities  
2 under Article 8 of the Uniform Commercial Code, and providing  
3 conforming changes, and an effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2368

1 Section 1. Section 554.1105, subsection 2, Code 1995, is  
2 amended to read as follows:

3 2. Where one of the following provisions of this chapter  
4 specifies the applicable law, that provision governs and a  
5 contrary agreement is effective only to the extent permitted  
6 by the law (including the conflict of laws rules) so  
7 specified:

8 Rights of creditors against sold goods. Section 554.2402.

9 Applicability of the Article on Bank Deposits and  
10 Collections. Section 554.4102.

11 Applicability of the Article on Investment Securities.

12 Section ~~554.8106~~ 554.8110.

13 Perfection provisions of the Article on Secured  
14 Transactions. Section 554.9103.

15 Governing law in the Article on Funds Transfers. Section  
16 554.12507.

17 Applicability of the Article on Leases. Sections 554.13105  
18 and 554.13106.

19 Sec. 2. Section 554.1206, subsection 2, Code 1995, is  
20 amended to read as follows:

21 2. Subsection 1 of this section does not apply to  
22 contracts for the sale of goods (section 554.2201) nor of  
23 securities (section ~~554.8319~~ 554.8113) nor to security  
24 agreements (section 554.9203).

25 Sec. 3. Section 554.4104, subsection 1, paragraph f, Code  
26 Supplement 1995, is amended to read as follows:

27 f. "Documentary draft" means a draft to be presented for  
28 acceptance or payment if specified documents, certificated  
29 securities (section 554.8102) or instructions for  
30 uncertificated securities (section ~~554.8308~~ 554.8102), or  
31 other certificates, statements, or the like are to be received  
32 by the drawee or other payor before acceptance or payment of  
33 the draft.

34 Sec. 4. Section 554.5114, subsection 2, unnumbered  
35 paragraph 1, Code 1995, is amended to read as follows:

1 Unless otherwise agreed when documents appear on their face  
2 to comply with the terms of a credit but a required document  
3 does not in fact conform to the warranties made on negotiation  
4 or transfer of a document of title (section 554.7507) or of a  
5 certificated security (section ~~554.8306~~ 554.8108) or is forged  
6 or fraudulent or there is fraud in the transaction:

7 PART 1

8 SHORT TITLE AND GENERAL MATTERS

9 Sec. 5. Section 554.8102, Code 1995, is amended by  
10 striking the section and inserting in lieu thereof the  
11 following:

12 554.8102 DEFINITIONS AND INDEX OF DEFINITIONS.

13 1. In this Article:

14 a. "Adverse claim" means a claim that a claimant has a  
15 property interest in a financial asset and that it is a  
16 violation of the rights of the claimant for another person to  
17 hold, transfer, or deal with the financial asset.

18 b. "Bearer form", as applied to a certificated security,  
19 means a form in which the security is payable to the bearer of  
20 the security certificate according to its terms but not by  
21 reason of an indorsement.

22 c. "Broker" means a person defined as a broker or dealer  
23 under the federal securities laws, but without excluding a  
24 bank acting in that capacity.

25 d. "Certificated security" means a security that is  
26 represented by a certificate.

27 e. "Clearing corporation" means:

28 (1) a person that is registered as a "clearing agency"  
29 under the federal securities laws;

30 (2) a federal reserve bank; or

31 (3) any other person that provides clearance or settlement  
32 services with respect to financial assets that would require  
33 it to register as a clearing agency under the federal  
34 securities laws but for an exclusion or exemption from the  
35 registration requirement, if its activities as a clearing

1 corporation, including promulgation of rules, are subject to  
2 regulation by a federal or state governmental authority.

3 f. "Communicate" means to:

4 (1) send a signed writing; or

5 (2) transmit information by any mechanism agreed upon by  
6 the persons transmitting and receiving the information.

7 g. "Entitlement holder" means a person identified in the  
8 records of a securities intermediary as the person having a  
9 security entitlement against the securities intermediary. If  
10 a person acquires a security entitlement by virtue of section  
11 554.8501, subsection 2, paragraph "b" or "c", that person is  
12 the entitlement holder.

13 h. "Entitlement order" means a notification communicated  
14 to a securities intermediary directing transfer or redemption  
15 of a financial asset to which the entitlement holder has a  
16 security entitlement.

17 i. "Financial asset", except as otherwise provided in  
18 section 554.8103, means:

19 (1) a security;

20 (2) an obligation of a person or a share, participation,  
21 or other interest in a person or in property or an enterprise  
22 of a person, which is, or is of a type, dealt in or traded on  
23 financial markets, or which is recognized in any area in which  
24 it is issued or dealt in as a medium for investment; or

25 (3) any property that is held by a securities intermediary  
26 for another person in a securities account if the securities  
27 intermediary has expressly agreed with the other person that  
28 the property is to be treated as a financial asset under this  
29 Article.

30 As context requires, the term means either the interest  
31 itself or the means by which a person's claim to it is  
32 evidenced, including a certificated or uncertificated  
33 security, a security certificate, or a security entitlement.

34 j. "Good faith", for purposes of the obligation of good  
35 faith in the performance or enforcement of contracts or duties

1 within this Article, means honesty in fact and the observance  
2 of reasonable commercial standards of fair dealing.

3 k. "Indorsement" means a signature that alone or  
4 accompanied by other words is made on a security certificate  
5 in registered form or on a separate document for the purpose  
6 of assigning, transferring, or redeeming the security or  
7 granting a power to assign, transfer, or redeem it.

8 l. "Instruction" means a notification communicated to the  
9 issuer of an uncertificated security which directs that the  
10 transfer of the security be registered or that the security be  
11 redeemed.

12 m. "Registered form", as applied to a certificated  
13 security, means a form in which:

14 (1) the security certificate specifies a person entitled  
15 to the security; and

16 (2) a transfer of the security may be registered upon  
17 books maintained for that purpose by or on behalf of the  
18 issuer, or the security certificate so states.

19 n. "Securities intermediary" means:

20 (1) a clearing corporation; or

21 (2) a person, including a bank or broker, that in the  
22 ordinary course of its business maintains securities accounts  
23 for others and is acting in that capacity.

24 o. "Security", except as otherwise provided in section  
25 554.8103, means an obligation of an issuer or a share,  
26 participation, or other interest in an issuer or in property  
27 or an enterprise of an issuer:

28 (1) which is represented by a security certificate in  
29 bearer or registered form, or the transfer of which may be  
30 registered upon books maintained for that purpose by or on  
31 behalf of the issuer;

32 (2) which is one of a class or series or by its terms is  
33 divisible into a class or series of shares, participations,  
34 interests, or obligations; and

35 (3) which:

1 (a) is, or is of a type, dealt in or traded on securities  
2 exchanges or securities markets; or

3 (b) is a medium for investment and by its terms expressly  
4 provides that it is a security governed by this Article.

5 p. "Security certificate" means a certificate representing  
6 a security.

7 q. "Security entitlement" means the rights and property  
8 interest of an entitlement holder with respect to a financial  
9 asset specified in Part 5.

10 r. "Uncertificated security" means a security that is not  
11 represented by a certificate.

12 2. Other definitions applying to this Article and the  
13 sections in which they appear are:

14	Appropriate person .....	Section 554.8107
15	Control .....	Section 554.8106
16	Delivery .....	Section 554.8301
17	Investment company	
18	security .....	Section 554.8103
19	Issuer .....	Section 554.8201
20	Overissue .....	Section 554.8210
21	Protected purchaser .....	Section 554.8303
22	Securities account .....	Section 554.8501

23 3. In addition, Article 1 contains general definitions and  
24 principles of construction and interpretation applicable  
25 throughout this Article.

26 4. The characterization of a person, business, or  
27 transaction for purposes of this Article does not determine  
28 the characterization of the person, business, or transaction  
29 for purposes of any other law, regulation, or rule.

30 Sec. 6. Section 554.8103, Code 1995, is amended by  
31 striking the section and inserting in lieu thereof the  
32 following:

33 554.8103 RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS  
34 AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS.

35 1. A share or similar equity interest issued by a

1 corporation, business trust, joint stock company, or similar  
2 entity is a security.

3 2. An "investment company security" is a security.

4 "Investment company security" means a share or similar equity  
5 interest issued by an entity that is registered as an  
6 investment company under the federal investment company laws,  
7 an interest in a unit investment trust that is so registered,  
8 or a face-amount certificate issued by a face-amount  
9 certificate company that is so registered. Investment company  
10 security does not include an insurance policy or endowment  
11 policy or annuity contract issued by an insurance company.

12 3. An interest in a partnership or limited liability  
13 company is not a security unless it is dealt in or traded on  
14 securities exchanges or in securities markets, its terms  
15 expressly provide that it is a security governed by this  
16 Article, or it is an investment company security. However, an  
17 interest in a partnership or limited liability company is a  
18 financial asset if it is held in a securities account.

19 4. A writing that is a security certificate is governed by  
20 this Article and not by Article 3, even though it also meets  
21 the requirements of that Article. However, a negotiable  
22 instrument governed by Article 3 is a financial asset if it is  
23 held in a securities account.

24 5. An option or similar obligation issued by a clearing  
25 corporation to its participants is not a security, but is a  
26 financial asset.

27 6. A commodity contract, as defined in section 554.9115,  
28 is not a security or a financial asset.

29 Sec. 7. Section 554.8104, Code 1995, is amended by  
30 striking the section and inserting in lieu thereof the  
31 following:

32 554.8104 ACQUISITION OF SECURITY OR FINANCIAL ASSET OR  
33 INTEREST THEREIN.

34 1. A person acquires a security or an interest therein,  
35 under this Article, if:

1 a. the person is a purchaser to whom a security is  
2 delivered pursuant to section 554.8301; or

3 b. the person acquires a security entitlement to the  
4 security pursuant to section 554.8501.

5 2. A person acquires a financial asset, other than a  
6 security, or an interest therein, under this Article, if the  
7 person acquires a security entitlement to the financial asset.

8 3. A person who acquires a security entitlement to a  
9 security or other financial asset has the rights specified in  
10 Part 5, but is a purchaser of any security, security  
11 entitlement, or other financial asset held by the securities  
12 intermediary only to the extent provided in section 554.8503.

13 4. Unless the context shows that a different meaning is  
14 intended, a person who is required by other law, regulation,  
15 rule, or agreement to transfer, deliver, present, surrender,  
16 exchange, or otherwise put in the possession of another person  
17 a security or financial asset satisfies that requirement by  
18 causing the other person to acquire an interest in the  
19 security or financial asset pursuant to subsection 1 or 2.

20 Sec. 8. Section 554.8105, Code 1995, is amended by  
21 striking the section and inserting in lieu thereof the  
22 following:

23 554.8105 NOTICE OF ADVERSE CLAIM.

24 1. A person has notice of an adverse claim if:

25 a. the person knows of the adverse claim;

26 b. the person is aware of facts sufficient to indicate  
27 that there is a significant probability that the adverse claim  
28 exists and deliberately avoids information that would  
29 establish the existence of the adverse claim; or

30 c. the person has a duty, imposed by statute or  
31 regulation, to investigate whether an adverse claim exists,  
32 and the investigation so required would establish the  
33 existence of the adverse claim.

34 2. Having knowledge that a financial asset or interest  
35 therein is or has been transferred by a representative imposes



1 no duty of inquiry into the rightfulness of a transaction and  
2 is not notice of an adverse claim. However, a person who  
3 knows that a representative has transferred a financial asset  
4 or interest therein in a transaction that is, or whose  
5 proceeds are being used, for the individual benefit of the  
6 representative or otherwise in breach of duty has notice of an  
7 adverse claim.

8 3. An act or event that creates a right to immediate  
9 performance of the principal obligation represented by a  
10 security certificate or sets a date on or after which the  
11 certificate is to be presented or surrendered for redemption  
12 or exchange does not itself constitute notice of an adverse  
13 claim except in the case of a transfer more than:

14 a. one year after a date set for presentment or surrender  
15 for redemption or exchange; or

16 b. six months after a date set for payment of money  
17 against presentation or surrender of the certificate, if money  
18 was available for payment on that date.

19 4. A purchaser of a certificated security has notice of an  
20 adverse claim if the security certificate:

21 a. whether in bearer or registered form, has been indorsed  
22 "for collection" or "for surrender" or for some other purpose  
23 not involving transfer; or

24 b. is in bearer form and has on it an unambiguous  
25 statement that it is the property of a person other than the  
26 transferor, but the mere writing of a name on the certificate  
27 is not such a statement.

28 5. Filing of a financing statement under Article 9 is not  
29 notice of an adverse claim to a financial asset.

30 Sec. 9. Section 554.8106, Code 1995, is amended by  
31 striking the section and inserting in lieu thereof the  
32 following:

33 554.8106 CONTROL.

34 1. A purchaser has "control" of a certificated security in  
35 bearer form if the certificated security is delivered to the

1 purchaser.

2 2. A purchaser has "control" of a certificated security in  
3 registered form if the certificated security is delivered to  
4 the purchaser, and:

5 a. the certificate is indorsed to the purchaser or in  
6 blank by an effective indorsement; or

7 b. the certificate is registered in the name of the  
8 purchaser, upon original issue or registration of transfer by  
9 the issuer.

10 3. A purchaser has "control" of an uncertificated security  
11 if:

12 a. the uncertificated security is delivered to the  
13 purchaser; or

14 b. the issuer has agreed that it will comply with  
15 instructions originated by the purchaser without further  
16 consent by the registered owner.

17 4. A purchaser has "control" of a security entitlement if:

18 a. the purchaser becomes the entitlement holder; or

19 b. the securities intermediary has agreed that it will  
20 comply with entitlement orders originated by the purchaser  
21 without further consent by the entitlement holder.

22 5. If an interest in a security entitlement is granted by  
23 the entitlement holder to the entitlement holder's own  
24 securities intermediary, the securities intermediary has  
25 control.

26 6. A purchaser who has satisfied the requirements of  
27 subsection 3, paragraph "b", or subsection 4, paragraph "b",  
28 has control even if the registered owner in the case of  
29 subsection 3, paragraph "b", or the entitlement holder in the  
30 case of subsection 4, paragraph "b", retains the right to make  
31 substitutions for the uncertificated security or security  
32 entitlement, to originate instructions or entitlement orders  
33 to the issuer or securities intermediary, or otherwise to deal  
34 with the uncertificated security or security entitlement.

35 7. An issuer or a securities intermediary may not enter

1 into an agreement of the kind described in subsection 3,  
2 paragraph "b", or subsection 4, paragraph "b", without the  
3 consent of the registered owner or entitlement holder, but an  
4 issuer or a securities intermediary is not required to enter  
5 into such an agreement even though the registered owner or  
6 entitlement holder so directs. An issuer or securities  
7 intermediary that has entered into such an agreement is not  
8 required to confirm the existence of the agreement to another  
9 party unless requested to do so by the registered owner or  
10 entitlement holder.

11 Sec. 10. Section 554.8107, Code 1995, is amended by  
12 striking the section and inserting in lieu thereof the  
13 following:

14 554.8107 WHETHER INDORSEMENT, INSTRUCTION, OR ENTITLEMENT  
15 ORDER IS EFFECTIVE.

16 1. "Appropriate person" means:

17 a. with respect to an indorsement, the person specified by  
18 a security certificate or by an effective special indorsement  
19 to be entitled to the security;

20 b. with respect to an instruction, the registered owner of  
21 an uncertificated security;

22 c. with respect to an entitlement order, the entitlement  
23 holder;

24 d. if the person designated in paragraph "a", "b", or "c"  
25 is deceased, the designated person's successor taking under  
26 other law or the designated person's personal representative  
27 acting for the estate of the decedent; or

28 e. if the person designated in paragraph "a", "b", or "c"  
29 lacks capacity, the designated person's guardian, conservator,  
30 or other similar representative who has power under other law  
31 to transfer the security or financial asset.

32 2. An indorsement, instruction, or entitlement order is  
33 effective if:

34 a. it is made by the appropriate person;

35 b. it is made by a person who has power under the law of

1 agency to transfer the security or financial asset on behalf  
2 of the appropriate person, including, in the case of an  
3 instruction or entitlement order, a person who has control  
4 under section 554.8106, subsection 3, paragraph "b", or  
5 subsection 4, paragraph "b"; or

6 c. the appropriate person has ratified it or is otherwise  
7 precluded from asserting its ineffectiveness.

8 3. An indorsement, instruction, or entitlement order made  
9 by a representative is effective even if:

10 a. the representative has failed to comply with a  
11 controlling instrument or with the law of the State having  
12 jurisdiction of the representative relationship, including any  
13 law requiring the representative to obtain court approval of  
14 the transaction; or

15 b. the representative's action in making the indorsement,  
16 instruction, or entitlement order or using the proceeds of the  
17 transaction is otherwise a breach of duty.

18 4. If a security is registered in the name of or specially  
19 indorsed to a person described as a representative, or if a  
20 securities account is maintained in the name of a person  
21 described as a representative, an indorsement, instruction, or  
22 entitlement order made by the person is effective even though  
23 the person is no longer serving in the described capacity.

24 5. Effectiveness of an indorsement, instruction, or  
25 entitlement order is determined as of the date the  
26 indorsement, instruction, or entitlement order is made, and an  
27 indorsement, instruction, or entitlement order does not become  
28 ineffective by reason of any later change of circumstances.

29 Sec. 11. Section 554.8108, Code 1995, is amended by  
30 striking the section and inserting in lieu thereof the  
31 following:

32 554.8108 WARRANTIES IN DIRECT HOLDING.

33 1. A person who transfers a certificated security to a  
34 purchaser for value warrants to the purchaser, and an  
35 indorser, if the transfer is by indorsement, warrants to any

1 subsequent purchaser, that:

2 a. the certificate is genuine and has not been materially  
3 altered;

4 b. the transferor or indorser does not know of any fact  
5 that might impair the validity of the security;

6 c. there is no adverse claim to the security;

7 d. the transfer does not violate any restriction on  
8 transfer;

9 e. if the transfer is by indorsement, the indorsement is  
10 made by an appropriate person, or if the indorsement is by an  
11 agent, the agent has actual authority to act on behalf of the  
12 appropriate person; and

13 f. the transfer is otherwise effective and rightful.

14 2. A person who originates an instruction for registration  
15 of transfer of an uncertificated security to a purchaser for  
16 value warrants to the purchaser that:

17 a. the instruction is made by an appropriate person, or if  
18 the instruction is by an agent, the agent has actual authority  
19 to act on behalf of the appropriate person;

20 b. the security is valid;

21 c. there is no adverse claim to the security; and

22 d. at the time the instruction is presented to the issuer:

23 (1) the purchaser will be entitled to the registration of  
24 transfer;

25 (2) the transfer will be registered by the issuer free  
26 from all liens, security interests, restrictions, and claims  
27 other than those specified in the instruction;

28 (3) the transfer will not violate any restriction on  
29 transfer; and

30 (4) the requested transfer will otherwise be effective and  
31 rightful.

32 3. A person who transfers an uncertificated security to a  
33 purchaser for value and does not originate an instruction in  
34 connection with the transfer warrants that:

35 a. the uncertificated security is valid;

- 1 b. there is no adverse claim to the security;
- 2 c. the transfer does not violate any restriction on
- 3 transfer; and
- 4 d. the transfer is otherwise effective and rightful.

5 4. A person who indorses a security certificate warrants  
6 to the issuer that:

- 7 a. there is no adverse claim to the security; and
- 8 b. the indorsement is effective.

9 5. A person who originates an instruction for registration  
10 of transfer of an uncertificated security warrants to the  
11 issuer that:

- 12 a. the instruction is effective; and
- 13 b. at the time the instruction is presented to the issuer
- 14 the purchaser will be entitled to the registration of
- 15 transfer.

16 6. A person who presents a certificated security for  
17 registration of transfer or for payment or exchange warrants  
18 to the issuer that the person is entitled to the registration,  
19 payment, or exchange, but a purchaser for value and without  
20 notice of adverse claims to whom transfer is registered  
21 warrants only that the person has no knowledge of any  
22 unauthorized signature in a necessary indorsement.

23 7. If a person acts as agent of another in delivering a  
24 certificated security to a purchaser, the identity of the  
25 principal was known to the person to whom the certificate was  
26 delivered, and the certificate delivered by the agent was  
27 received by the agent from the principal or received by the  
28 agent from another person at the direction of the principal,  
29 the person delivering the security certificate warrants only  
30 that the delivering person has authority to act for the  
31 principal and does not know of any adverse claim to the  
32 certificated security.

33 8. A secured party who redelivers a security certificate  
34 received, or after payment and on order of the debtor delivers  
35 the security certificate to another person, makes only the

1 warranties of an agent under subsection 7.

2 9. Except as otherwise provided in subsection 7, a broker  
3 acting for a customer makes to the issuer and a purchaser the  
4 warranties provided in subsections 1 through 6. A broker that  
5 delivers a security certificate to its customer, or causes its  
6 customer to be registered as the owner of an uncertificated  
7 security, makes to the customer the warranties provided in  
8 subsection 1 or 2, and has the rights and privileges of a  
9 purchaser under this section. The warranties of and in favor  
10 of the broker acting as an agent are in addition to applicable  
11 warranties given by and in favor of the customer.

12 Sec. 12. NEW SECTION. 554.8109 WARRANTIES IN INDIRECT  
13 HOLDING.

14 1. A person who originates an entitlement order to a  
15 securities intermediary warrants to the securities  
16 intermediary that:

17 a. the entitlement order is made by an appropriate person,  
18 or if the entitlement order is by an agent, the agent has  
19 actual authority to act on behalf of the appropriate person;  
20 and

21 b. there is no adverse claim to the security entitlement.

22 2. A person who delivers a security certificate to a  
23 securities intermediary for credit to a securities account or  
24 originates an instruction with respect to an uncertificated  
25 security directing that the uncertificated security be  
26 credited to a securities account makes to the securities  
27 intermediary the warranties specified in section 554.8108,  
28 subsection 1 or 2.

29 3. If a securities intermediary delivers a security  
30 certificate to its entitlement holder or causes its  
31 entitlement holder to be registered as the owner of an  
32 uncertificated security, the securities intermediary makes to  
33 the entitlement holder the warranties specified in section  
34 554.8108, subsection 1 or 2.

35 Sec. 13. NEW SECTION. 554.8110 APPLICABILITY -- CHOICE

1 OF LAW.

2 1. The local law of the issuer's jurisdiction, as  
3 specified in subsection 4, governs:

4 a. the validity of a security;

5 b. the rights and duties of the issuer with respect to  
6 registration of transfer;

7 c. the effectiveness of registration of transfer by the  
8 issuer;

9 d. whether the issuer owes any duties to an adverse  
10 claimant to a security; and

11 e. whether an adverse claim can be asserted against a  
12 person to whom transfer of a certificated or uncertificated  
13 security is registered or a person who obtains control of an  
14 uncertificated security.

15 2. The local law of the securities intermediary's  
16 jurisdiction, as specified in subsection 5, governs:

17 a. acquisition of a security entitlement from the  
18 securities intermediary;

19 b. the rights and duties of the securities intermediary  
20 and entitlement holder arising out of a security entitlement;

21 c. whether the securities intermediary owes any duties to  
22 an adverse claimant to a security entitlement; and

23 d. whether an adverse claim can be asserted against a  
24 person who acquires a security entitlement from the securities  
25 intermediary or a person who purchases a security entitlement  
26 or interest therein from an entitlement holder.

27 3. The local law of the jurisdiction in which a security  
28 certificate is located at the time of delivery governs whether  
29 an adverse claim can be asserted against a person to whom the  
30 security certificate is delivered.

31 4. "Issuer's jurisdiction" means the jurisdiction under  
32 which the issuer of the security is organized or, if permitted  
33 by the law of that jurisdiction, the law of another  
34 jurisdiction specified by the issuer. An issuer organized  
35 under the law of this state may specify the law of another



1 jurisdiction as the law governing the matters specified in  
2 subsection 1, paragraphs "b" through "e".

3 5. The following rules determine a "securities  
4 intermediary's jurisdiction" for purposes of this section:

5 a. if an agreement between the securities intermediary and  
6 its entitlement holder specifies that it is governed by the  
7 law of a particular jurisdiction, that jurisdiction is the  
8 securities intermediary's jurisdiction.

9 b. if an agreement between the securities intermediary and  
10 its entitlement holder does not specify the governing law as  
11 provided in paragraph "a", but expressly specifies that the  
12 securities account is maintained at an office in a particular  
13 jurisdiction, that jurisdiction is the securities  
14 intermediary's jurisdiction.

15 c. if an agreement between the securities intermediary and  
16 its entitlement holder does not specify a jurisdiction as  
17 provided in paragraph "a" or "b", the securities  
18 intermediary's jurisdiction is the jurisdiction in which is  
19 located the office identified in an account statement as the  
20 office serving the entitlement holder's account.

21 d. if an agreement between the securities intermediary and  
22 its entitlement holder does not specify a jurisdiction as  
23 provided in paragraph "a" or "b" and an account statement does  
24 not identify an office serving the entitlement holder's  
25 account as provided in paragraph "c", the securities  
26 intermediary's jurisdiction is the jurisdiction in which is  
27 located the chief executive office of the securities  
28 intermediary.

29 6. A securities intermediary's jurisdiction is not  
30 determined by the physical location of certificates  
31 representing financial assets, or by the jurisdiction in which  
32 is organized the issuer of the financial asset with respect to  
33 which an entitlement holder has a security entitlement, or by  
34 the location of facilities for data processing or other record  
35 keeping concerning the account.

1     Sec. 14.   NEW SECTION.   554.8111   CLEARING CORPORATION  
2 RULES.

3     A rule adopted by a clearing corporation governing rights  
4 and obligations among the clearing corporation and its  
5 participants in the clearing corporation is effective even if  
6 the rule conflicts with this Article and affects another party  
7 who does not consent to the rule.

8     Sec. 15.   NEW SECTION.   554.8112   CREDITOR'S LEGAL PROCESS.

9     1.   The interest of a debtor in a certificated security may  
10 be reached by a creditor only by actual seizure of the  
11 security certificate by the officer making the attachment or  
12 levy, except as otherwise provided in subsection 4.  However,  
13 a certificated security for which the certificate has been  
14 surrendered to the issuer may be reached by a creditor by  
15 legal process upon the issuer.

16    2.   The interest of a debtor in an uncertificated security  
17 may be reached by a creditor only by legal process upon the  
18 issuer at its chief executive office in the United States,  
19 except as otherwise provided in subsection 4.

20    3.   The interest of a debtor in a security entitlement may  
21 be reached by a creditor only by legal process upon the  
22 securities intermediary with whom the debtor's securities  
23 account is maintained, except as otherwise provided in  
24 subsection 4.

25    4    The interest of a debtor in a certificated security for  
26 which the certificate is in the possession of a secured party,  
27 or in an uncertificated security registered in the name of a  
28 secured party, or a security entitlement maintained in the  
29 name of a secured party, may be reached by a creditor by legal  
30 process upon the secured party.

31    5.   A creditor whose debtor is the owner of a certificated  
32 security, uncertificated security, or security entitlement is  
33 entitled to aid from a court of competent jurisdiction, by  
34 injunction or otherwise, in reaching the certificated  
35 security, uncertificated security, or security entitlement or

1 in satisfying the claim by means allowed at law or in equity  
2 in regard to property that cannot readily be reached by other  
3 legal process.

4 Sec. 16. NEW SECTION. 554.8113 STATUTE OF FRAUDS  
5 INAPPLICABLE.

6 A contract or modification of a contract for the sale or  
7 purchase of a security is enforceable whether or not there is  
8 a writing signed or record authenticated by a party against  
9 whom enforcement is sought, even if the contract or  
10 modification is not capable of performance within one year of  
11 its making.

12 Sec. 17. NEW SECTION. 554.8114 EVIDENTIARY RULES  
13 CONCERNING CERTIFICATED SECURITIES.

14 The following rules apply in an action on a certificated  
15 security against the issuer:

16 1. Unless specifically denied in the pleadings, each  
17 signature on a security certificate or in a necessary  
18 indorsement is admitted.

19 2. If the effectiveness of a signature is put in issue,  
20 the burden of establishing effectiveness is on the party  
21 claiming under the signature, but the signature is presumed to  
22 be genuine or authorized.

23 3. If signatures on a security certificate are admitted or  
24 established, production of the certificate entitles a holder  
25 to recover on it unless the defendant establishes a defense or  
26 a defect going to the validity of the security.

27 4. If it is shown that a defense or defect exists, the  
28 plaintiff has the burden of establishing that the plaintiff or  
29 some person under whom the plaintiff claims is a person  
30 against whom the defense or defect cannot be asserted.

31 Sec. 18. NEW SECTION. 554.8115 SECURITIES INTERMEDIARY  
32 AND OTHERS NOT LIABLE TO ADVERSE CLAIMANT.

33 A securities intermediary that has transferred a financial  
34 asset pursuant to an effective entitlement order, or a broker  
35 or other agent or bailee that has dealt with a financial asset

1 at the direction of its customer or principal, is not liable  
2 to a person having an adverse claim to the financial asset,  
3 unless the securities intermediary, or broker or other agent  
4 or bailee:

- 5 1. took the action after it had been served with an  
6 injunction, restraining order, or other legal process  
7 enjoining it from doing so, issued by a court of competent  
8 jurisdiction, and had a reasonable opportunity to act on the  
9 injunction, restraining order, or other legal process; or  
10 2. acted in collusion with the wrongdoer in violating the  
11 rights of the adverse claimant; or  
12 3. in the case of a security certificate that has been  
13 stolen, acted with notice of the adverse claim.

14 PART 2

15 ISSUE AND ISSUER

16 Sec. 19. Section 554.8201, Code 1995, is amended to read  
17 as follows:

18 554.8201 "ISSUER".

19 1. With respect to obligations an obligation on or  
20 defenses a defense to a security, an "issuer" includes a  
21 person who that:

22 a. places or authorizes the placing of ~~that-person's~~ its  
23 name on a certificated security (~~otherwise certificate, other~~  
24 than as authenticating trustee, registrar, transfer agent, or  
25 the like), to evidence ~~that-it-represents~~ a share,  
26 participation, or other interest in ~~that-person's~~ its property  
27 or in an enterprise, or to evidence ~~that-person's~~ its duty to  
28 perform an obligation represented by the ~~certificated-security~~  
29 certificate;

30 b. creates ~~shares~~ a share, ~~participations~~ participation or  
31 other ~~interests~~ interest in the ~~person's~~ its property or in an  
32 enterprise, or undertakes ~~obligations~~ an obligation, which  
33 ~~shares, participations, interests, or obligations are~~ that is  
34 an uncertificated securities security;

35 c. directly or indirectly creates a fractional interests

1 interest in that person's its rights or property, which if the  
 2 fractional interests-are interest is represented by  
 3 ~~certificated-securities~~ security certificate; or

4 d. becomes responsible for, or in place of, ~~any-other~~  
 5 another person described as an issuer in this section.

6 2. With respect to ~~obligations~~ an obligation on or  
 7 ~~defenses~~ defense to a security, a guarantor is an issuer to  
 8 the extent of ~~the-guarantor's-guaranty~~ its guaranty, whether  
 9 or not ~~the-guarantor's~~ its guaranty, whether or not its  
 10 obligation is noted on a ~~certificated security or-on~~  
 11 ~~statements-of-uncertificated-securities-sent-pursuant-to~~  
 12 ~~section-554.8408~~ certificate.

13 3. With respect to a registration of a transfer, ~~pledge,~~  
 14 ~~or-release-(Part-4-of-this-Article),~~ "issuer" issuer means a  
 15 person on whose behalf transfer books are maintained.

16 Sec. 20. Section 554.8202, Code 1995, is amended to read  
 17 as follows:

18 554.8202 ISSUER'S RESPONSIBILITY AND DEFENSES -- NOTICE OF  
 19 DEFECT OR DEFENSE.

20 1. Even against a purchaser for value and without notice,  
 21 the terms of a certificated security include:

22 a. ~~if-the-security-is-certificated,~~ those stated on the  
 23 security;

24 b. ~~if-the-security-is-uncertificated,~~ those contained in  
 25 the ~~initial-transaction-statement-sent-to-such-purchaser,~~ or  
 26 ~~if-the-purchaser's-interest-is-transferred-to-the-purchaser~~  
 27 ~~other-than-by-registration-of-transfer,~~ ~~pledge,~~ or ~~release,~~  
 28 the ~~initial-transaction-statement-sent-to-the-registered-owner~~  
 29 or ~~registered-pledgee,~~ and

30 c. ~~those-made-part-of-the-security-by-reference,~~ on the  
 31 ~~certificated-security-or-in-the-initial-transaction-statement,~~  
 32 terms stated on the certificate and terms made part of the  
 33 security by reference on the certificate to another  
 34 instrument, indenture, or document or to a constitution,  
 35 statute, ordinance, rule, regulation, order, or the like, to

1 the extent that the terms referred to do not conflict with the  
2 terms stated on the ~~certificated-security-or-contained-in-the~~  
3 ~~initial-statement certificate~~. A reference under this  
4 paragraph subsection does not of itself charge a purchaser for  
5 value with notice of a defect going to the validity of the  
6 security, even though ~~the-certificated-security-or-statement~~  
7 if the certificate expressly states that a person accepting it  
8 admits notice. The terms of an uncertificated security,  
9 include those stated in any instrument, indenture, or document  
10 or in a constitution, statute, ordinance, rule, regulation,  
11 order, or the like pursuant to which the security is issued.

12 2. The following rules apply if an issuer asserts that a  
13 security is not valid:

14 a. A certificated security in-the-hands-of-a-purchaser-for  
15 value-or-an-uncertificated-security-as-to-which-an-initial  
16 transaction-statement-has-been-sent-to-a-purchaser-for-value,  
17 other than a security one issued by a government or  
18 governmental subdivision, agency, or unit instrumentality,  
19 even though issued with a defect going to its validity, is  
20 valid with-respect-to-the in the hands of a purchaser if-the  
21 purchaser-is for value and without notice of the particular  
22 defect unless the defect involves a violation of a  
23 constitutional provisions, in-which provision. In that case,  
24 the security is valid with-respect-to-a-subsequent in the  
25 hands of a purchaser for value and without notice of the  
26 defect, other than one who takes by original issue.

27 b. This-subsection Paragraph "a" applies to an issuer that  
28 is a government or governmental subdivision, agency, or unit  
29 instrumentality only if either there has been substantial  
30 compliance with the legal requirements governing the issue or  
31 the issuer has received a substantial consideration for the  
32 issue as a whole or for the particular security and a stated  
33 purpose of the issue is one for which the issuer has power to  
34 borrow money or issue the security.

35 3. Except as otherwise provided in the-case-of-certain

1 ~~unauthorized-signatures-(section 554.8205)~~, lack of  
 2 genuineness of a certificated security ~~or-an-initial~~  
 3 ~~transaction-statement~~ is a complete defense, even against a  
 4 purchaser for value and without notice.

5 4. All other defenses of the issuer of a ~~certificated-or~~  
 6 ~~uncertificated~~ security, including nondelivery and conditional  
 7 delivery of a certificated security, are ineffective against a  
 8 purchaser for value who has taken the certificated security  
 9 without notice of the particular defense.

10 5. ~~Nothing-in-this~~ This section shall-be-construed-to does  
 11 not affect the right of a party to cancel a contract for a  
 12 security "when, as and if issued" or a "when distributed"  
 13 ~~contract-to-cancel-the-contract~~ in the event of a material  
 14 change in the character of the security that is the subject of  
 15 the contract or in the plan or arrangement pursuant to which  
 16 the security is to be issued or distributed.

17 6. If a security is held by a securities intermediary  
 18 against whom an entitlement holder has a security entitlement  
 19 with respect to the security, the issuer may not assert any  
 20 defense that the issuer could not assert if the entitlement  
 21 holder held the security director.

22 Sec. 21. Section 554.8203, Code 1995, is amended to read  
 23 as follows:

24 554.8203 STALENESS AS NOTICE OF DEFECTS DEFECT OR DEFENSES  
 25 DEFENSE.

26 ~~±~~ After an act or event, other than a call that has been  
 27 revoked, creating a right to immediate performance of the  
 28 principal obligation represented by a certificated security or  
 29 ~~that-sets~~ setting a date on or after which the security is to  
 30 be presented or surrendered for redemption or exchange, a  
 31 purchaser is charged with notice of any defect in its issue or  
 32 defense of the issuer, if the act or event:

33 ~~a- 1. the-act-or-event-is-one-requiring~~ requires the  
 34 payment of money, the delivery of a certificated securities  
 35 security, the registration of transfer of an uncertificated

1 ~~securities security~~, or any of these ~~them~~ on presentation or  
2 surrender of the ~~certificated security certificate~~, the funds  
3 ~~money or securities-are security is~~ available on the date set  
4 for payment or exchange, and the purchaser takes the security  
5 more than one year after that date; and ~~or~~

6 ~~b. 2.~~ the ~~act-or-event~~ is not covered by paragraph-"a"  
7 subsection 1 and the purchaser takes the security more than  
8 two years after the date set for surrender or presentation or  
9 the date on which performance became due.

10 ~~2.--A-call-that-has-been-revoked-is-not-within-subsection~~  
11 ~~1:~~

12 Sec. 22. Section 554.8204, Code 1995, is amended to read  
13 as follows:

14 554.8204 EFFECT OF ISSUER'S RESTRICTIONS RESTRICTION ON  
15 TRANSFER.

16 A restriction on transfer of a security imposed by the  
17 issuer, even though if otherwise lawful, is ineffective  
18 against any a person without actual knowledge of it the  
19 restriction unless:

20 ~~a. 1.~~ the security is certificated and the restriction is  
21 noted conspicuously thereon on the security certificate; or

22 ~~b. 2.~~ the security is uncertificated and ~~a-notation-of-the~~  
23 ~~restriction-is-contained-in-the-initial-transaction-statement~~  
24 ~~sent-to-the-person-or,if-the-person's-interest-is-transferred~~  
25 ~~to-the-person-other-than-by-registration-of-transfer,pledge,~~  
26 ~~or-release, the-initial-transaction-statement-sent-to-the~~  
27 ~~registered-owner-or-the-registered-pledgee~~ the registered  
28 owner has been notified of the restriction.

29 Sec. 23. Section 554.8205, Code 1995, is amended to read  
30 as follows:

31 554.8205 EFFECT OF UNAUTHORIZED SIGNATURE ON CERTIFICATED  
32 SECURITY OR-INITIAL-TRANSACTION-STATEMENT CERTIFICATE.

33 An unauthorized signature placed on a certificated security  
34 prior-to certificate or in the course of issue or-placed-on-an  
35 initial-transaction-statement is ineffective, but the



1 signature is effective in favor of a purchaser for value of  
2 the certificated security ~~or-a~~ if the purchaser for value of  
3 ~~an-uncertificated-security-to-whom-such-initial-transaction~~  
4 ~~statement-has-been-sent~~, if the purchaser is without notice of  
5 the lack of authority and ~~if~~ the signing has been done by:  
6 a- 1. an authenticating trustee, registrar, transfer agent  
7 or other person entrusted by the issuer with the signing of  
8 the security, ~~of-similar-securities, or of initial-transaction~~  
9 statements certificate or of similar security certificates, or  
10 the immediate preparation for signing of any of them; or  
11 b- 2. an employee of the issuer, or of any of the  
12 foregoing persons listed in paragraph "a", entrusted with  
13 responsible handling of the security ~~or-initial-transaction~~  
14 statement certificate.

15 Sec. 24. Section 554.8206, Code 1995, is amended to read  
16 as follows:

17 554.8206 COMPLETION OR ALTERATION OF CERTIFICATED SECURITY  
18 ~~OR-INITIAL-TRANSACTION-STATEMENT~~ CERTIFICATE.

19 1. If a certificated security certificate contains the  
20 signatures necessary to its issue or transfer but is  
21 incomplete in any other respect:

22 a. any person may complete it by filling in the blanks as  
23 authorized; and

24 b. even though if the blanks are incorrectly filled in,  
25 the security certificate as completed is enforceable by a  
26 purchaser who took it for value and without notice of the  
27 incorrectness.

28 2. A complete certificated security certificate that has  
29 been improperly altered, even though if fraudulently, remains  
30 enforceable, but only according to its original terms.

31 ~~3.--if-an-initial-transaction-statement-contains-the~~  
32 ~~signatures-necessary-to-its-validity, but-is-incomplete-in-any~~  
33 ~~other-respect:~~

34 ~~a.--any-person-may-complete-it-by-filling-in-the-blanks-as~~  
35 ~~authorized, and~~

1 ~~b.---even-though-the-blanks-are-incorrectly-filled-in,-the~~  
2 ~~statement-as-completed-is-effective-in-favor-of-the-person-to~~  
3 ~~whom-it-is-sent-if-the-person-purchased-the-security-referred~~  
4 ~~to-therein-for-value-and-without-notice-of-the-incorrectness.~~

5 ~~4.---A-complete-initial-transaction-statement-that-has-been~~  
6 ~~improperly-altered,-even-though-fraudulently,-is-effective-in~~  
7 ~~favor-of-a-purchaser-to-whom-it-has-been-sent,-but-only~~  
8 ~~according-to-its-original-terms.~~

9 Sec. 25. Section 554.8207, Code 1995, is amended to read  
10 as follows:

11 554.8207 RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO  
12 REGISTERED OWNERS.

13 1. ~~Prior-to~~ Before due presentment for registration of  
14 transfer of a certificated security in registered form, or of  
15 an instruction requesting registration of transfer of an  
16 uncertificated security, the issuer or indenture trustee may  
17 treat the registered owner as the person exclusively entitled  
18 to vote, to receive notifications, and otherwise to exercise  
19 all the rights and powers of an owner.

20 ~~2.---Subject-to-the-provisions-of-subsections-37-47-and-67~~  
21 ~~the-issuer-or-indenture-trustee-may-treat-the-registered-owner~~  
22 ~~of-an-uncertificated-security-as-the-person-exclusively~~  
23 ~~entitled-to-vote,-to-receive-notifications,-and-otherwise-to~~  
24 ~~exercise-all-the-rights-and-powers-of-an-owner.~~

25 ~~3. 2. The~~ This Article does not affect the liability of  
26 the registered owner of an-uncertificated a security that-is  
27 subject-to-a-registered-pledge-is-not-entitled-to-registration  
28 of-transfer-prior-to-the-due-presentment-to-the-issuer-of-a  
29 release-instruction for a call, assessment, or the like. The  
30 exercise-of-conversion-rights-with-respect-to-a-convertible  
31 uncertificated-security-is-a-transfer-within-the-meaning-of  
32 this-section.

33 ~~4.---Upon-due-presentment-of-a-transfer-instruction-from-the~~  
34 ~~registered-pledgee-of-an-uncertificated-security,-the-issuer~~  
35 ~~shall:~~

1 a.--register-the-transfer-of-the-security-to-the-new-owner  
2 free-of-pledge,if-the-instruction-specifies-a-new-owner-(who  
3 may-be-the-registered-pledgee)-and-does-not-specify-a-pledgee;

4 b.--register-the-transfer-of-the-security-to-the-new-owner  
5 subject-to-the-interest-of-the-existing-pledgee,if-the  
6 instruction-specifies-a-new-owner-and-the-existing-pledgee,or

7 c.--register-the-release-of-the-security-from-the-existing  
8 pledge-and-register-the-pledge-of-the-security-to-the-other  
9 pledgee,if-the-instruction-specifies-the-existing-owner-and  
10 another-pledgee;

11 5.--Continuity-of-perfection-of-a-security-interest-is-not  
12 broken-by-registration-of-transfer-under-subsection-(4)(b)-or  
13 by-registration-of-release-and-pledge-under-subsection-(4)(c),  
14 if-the-security-interest-is-assigned;

15 6.--If-an-uncertificated-security-is-subject-to-a  
16 registered-pledge:

17 a.--any-uncertificated-securities-issued-in-exchange-for-or  
18 distributed-with-respect-to-the-pledged-security-shall-be  
19 registered-subject-to-the-pledge;

20 b.--any-certificated-securities-issued-in-exchange-for-or  
21 distributed-with-respect-to-the-pledged-security-shall-be  
22 delivered-to-the-registered-pledgee;-and

23 c.--any-money-paid-in-exchange-for-or-in-redemption-of-part  
24 or-all-of-the-security-shall-be-paid-to-the-registered  
25 pledgee;

26 7.--Nothing-in-this-Article-shall-be-construed-to-affect  
27 the-liability-of-the-registered-owner-of-a-security-for-calls,  
28 assessments,or-the-like.

29 Sec. 26. Section 554.8208, Code 1995, is amended to read  
30 as follows:

31 554.8208 EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE,  
32 REGISTRAR, OR TRANSFER AGENT.

33 1. A person placing-that-person's-signature-upon signing a  
34 certificated security or-an-initial-transaction-statement  
35 certificate, as authenticating trustee, registrar, transfer

1 agent, or the like, warrants to a purchaser for value of the  
2 certificated security, ~~or a purchaser for value of an~~  
3 ~~uncertificated security to whom the initial transaction~~  
4 ~~statement has been sent~~, if the purchaser is without notice of  
5 the particular defect, that:

6 a. ~~the certificated security or initial transaction~~  
7 ~~statement~~ certificate is genuine;

8 b. that the person's own participation in the issue or  
9 ~~registration of transfer, pledge, or release~~ of the security  
10 is within that the person's capacity and within the scope of  
11 the authority received by that the person from the issuer; and

12 c. that the person has reasonable grounds to believe that  
13 the certificated security is in the form and within the amount  
14 the issuer is authorized to issue.

15 2. Unless otherwise agreed, a person ~~by so placing that~~  
16 ~~person's signature~~ signing under subsection 1 does not assume  
17 responsibility for the validity of the security in other  
18 respects.

19 Sec. 27. NEW SECTION. 554.8209 ISSUER'S LIEN.

20 A lien in favor of an issuer upon a certificated security  
21 is valid against a purchaser only if the right of the issuer  
22 to the lien is noted conspicuously on the security  
23 certificate.

24 Sec. 28. NEW SECTION. 554.8210 OVERISSUE.

25 1. In this section, "overissue" means the issue of  
26 securities in excess of the amount the issuer has corporate  
27 power to issue, but an overissue does not occur if appropriate  
28 action has cured the overissue.

29 2. Except as otherwise provided in subsections 3 and 4,  
30 the provisions of this Article which validate a security or  
31 compel its issue or reissue do not apply to the extent that  
32 validation, issue, or reissue would result in overissue.

33 3. If an identical security not constituting an overissue  
34 is reasonably available for purchase, a person entitled to  
35 issue or validation may compel the issuer to purchase the

1 security and deliver it if certificated or register its  
2 transfer if uncertificated, against surrender of any security  
3 certificate the person holds.

4 4. If a security is not reasonably available for purchase,  
5 a person entitled to issue or validation may recover from the  
6 issuer the price the person or the last purchaser for value  
7 paid for it with interest from the date of the person's  
8 demand.

9

PART 3

10

TRANSFER OF CERTIFICATED

11

AND UNCERTIFICATED SECURITIES

12

Sec. 29. Section 554.8301, Code 1995, is amended by  
13 striking the section and inserting in lieu thereof the  
14 following:

15

554.8301 DELIVERY.

16

1. Delivery of a certificated security to a purchaser  
17 occurs when:

18

a. the purchaser acquires possession of the security  
19 certificate;

20

b. another person, other than a securities intermediary,  
21 either acquires possession of the security certificate on  
22 behalf of the purchaser or, having previously acquired  
23 possession of the certificate, acknowledges that it holds for  
24 the purchaser; or

25

c. a securities intermediary acting on behalf of the  
26 purchaser acquires possession of the security certificate,  
27 only if the certificate is in registered form and has been  
28 specially indorsed to the purchaser by an effective  
29 indorsement.

30

2. Delivery of an uncertificated security to a purchaser  
31 occurs when:

32

a. the issuer registers the purchaser as the registered  
33 owner, upon original issue or registration of transfer; or

34

b. another person, other than a securities intermediary,  
35 either becomes the registered owner of the uncertificated

1 security on behalf of the purchaser or, having previously  
2 become the registered owner, acknowledges that it holds for  
3 the purchaser.

4 Sec. 30. Section 554.8302, Code 1995, is amended by  
5 striking the section and inserting in lieu thereof the  
6 following:

7 554.8302 RIGHTS OF PURCHASER.

8 1. Except as otherwise provided in subsections 2 and 3,  
9 upon delivery of a certificated or uncertificated security to  
10 a purchaser, the purchaser acquires all rights in the security  
11 that the transferor had or had power to transfer.

12 2. A purchaser of a limited interest acquires rights only  
13 to the extent of the interest purchased.

14 3. A purchaser of a certificated security who as a  
15 previous holder had notice of an adverse claim does not  
16 improve its position by taking from a protected purchaser.

17 Sec. 31. Section 554.8303, Code 1995, is amended by  
18 striking the section and inserting in lieu thereof the  
19 following:

20 554.8303 PROTECTED PURCHASER.

21 1. "Protected purchaser" means a purchaser of a  
22 certificated or uncertificated security, or of an interest  
23 therein, who:

24 a. gives value;

25 b. does not have notice of any adverse claim to the  
26 security; and

27 c. obtains control of the certificated or uncertificated  
28 security.

29 2. In addition to acquiring the rights of a purchaser, a  
30 protected purchaser also acquires its interest in the security  
31 free of any adverse claim.

32 Sec. 32. Section 554.8304, Code 1995, is amended by  
33 striking the section and inserting in lieu thereof the  
34 following:

35 554.8304 INDORSEMENT.

1 1. An indorsement may be in blank or special. An  
2 indorsement in blank includes an indorsement to bearer. A  
3 special indorsement specifies to whom a security is to be  
4 transferred or who has power to transfer it. A holder may  
5 convert a blank indorsement to a special indorsement.

6 2. An indorsement purporting to be only of part of a  
7 security certificate representing units intended by the issuer  
8 to be separately transferable is effective to the extent of  
9 the indorsement.

10 3. An indorsement, whether special or in blank, does not  
11 constitute a transfer until delivery of the certificate on  
12 which it appears or, if the indorsement is on a separate  
13 document, until delivery of both the document and the  
14 certificate.

15 4. If a security certificate in registered form has been  
16 delivered to a purchaser without a necessary indorsement, the  
17 purchaser may become a protected purchaser only when the  
18 indorsement is supplied. However, against a transferor, a  
19 transfer is complete upon delivery and the purchaser has a  
20 specifically enforceable right to have any necessary  
21 indorsement supplied.

22 5. An indorsement of a security certificate in bearer form  
23 may give notice of an adverse claim to the certificate, but it  
24 does not otherwise affect a right to registration that the  
25 holder possesses.

26 6. Unless otherwise agreed, a person making an indorsement  
27 assumes only the obligations provided in section 554.8108 and  
28 not an obligation that the security will be honored by the  
29 issuer.

30 Sec. 33. Section 554.8305, Code 1995, is amended by  
31 striking the section and inserting in lieu thereof the  
32 following:

33 554.8305 INSTRUCTION.

34 1. If an instruction has been originated by an appropriate  
35 person but is incomplete in any other respect, any person may

1 complete it as authorized and the issuer may rely on it as  
2 completed, even though it has been completed incorrectly.

3 2. Unless otherwise agreed, a person initiating an  
4 instruction assumes only the obligations imposed by section  
5 554.8108 and not an obligation that the security will be  
6 honored by the issuer.

7 Sec. 34. Section 554.8306, Code 1995, is amended by  
8 striking the section and inserting in lieu thereof the  
9 following:

10 554.8306 EFFECT OF GUARANTEEING SIGNATURE, INDORSEMENT, OR  
11 INSTRUCTION.

12 1. A person who guarantees a signature of an indorser of a  
13 security certificate warrants that at the time of signing:

14 a. the signature was genuine;

15 b. the signer was an appropriate person to indorse, or if  
16 the signature is by an agent, the agent had actual authority  
17 to act on behalf of the appropriate person; and

18 c. the signer had legal capacity to sign.

19 2. A person who guarantees a signature of the originator  
20 of an instruction warrants that at the time of signing:

21 a. the signature was genuine;

22 b. the signer was an appropriate person to originate the  
23 instruction, or if the signature is by an agent, the agent had  
24 actual authority to act on behalf of the appropriate person,  
25 if the person specified in the instruction as the registered  
26 owner was, in fact, the registered owner, as to which fact the  
27 signature guarantor does not make a warranty; and

28 c. the signer had legal capacity to sign.

29 3. A person who specially guarantees the signature of an  
30 originator of an instruction makes the warranties of a  
31 signature guarantor under subsection 2 and also warrants that  
32 at the time the instruction is presented to the issuer:

33 a. the person specified in the instruction as the

34 registered owner of the uncertificated security will be the  
35 registered owner; and



1 b. the transfer of the uncertificated security requested  
2 in the instruction will be registered by the issuer free from  
3 all liens, security interests, restrictions, and claims other  
4 than those specified in the instruction.

5 4. A guarantor under subsections 1 and 2 or a special  
6 guarantor under subsection 3 does not otherwise warrant the  
7 rightfulness of the transfer.

8 5. A person who guarantees an indorsement of a security  
9 certificate makes the warranties of a signature guarantor  
10 under subsection 1 and also warrants the rightfulness of the  
11 transfer in all respects.

12 6. A person who guarantees an instruction requesting the  
13 transfer of an uncertificated security makes the warranties of  
14 a special signature guarantor under subsection 3 and also  
15 warrants the rightfulness of the transfer in all respects.

16 7. An issuer may not require a special guaranty of  
17 signature, a guaranty of indorsement, or a guaranty of  
18 instruction as a condition to registration of transfer.

19 8. The warranties under this section are made to a person  
20 taking or dealing with the security in reliance on the  
21 guaranty, and the guarantor is liable to the person for loss  
22 resulting from their breach. An indorser or originator of an  
23 instruction whose signature, indorsement, or instruction has  
24 been guaranteed is liable to a guarantor for any loss suffered  
25 by the guarantor as a result of breach of the warranties of  
26 the guarantor.

27 Sec. 35. Section 554.8307, Code 1995, is amended by  
28 striking the section and inserting in lieu thereof the  
29 following:

30 554.8307 PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION  
31 OF TRANSFER.

32 Unless otherwise agreed, the transferor of a security on  
33 due demand shall supply the purchaser with proof of authority  
34 to transfer or with any other requisite necessary to obtain  
35 registration of the transfer of the security, but if the

1 transfer is not for value, a transferor need not comply unless  
2 the purchaser pays the necessary expenses. If the transferor  
3 fails within a reasonable time to comply with the demand, the  
4 purchaser may reject or rescind the transfer.

5 PART 4

6 REGISTRATION

7 Sec. 36. Section 554.8401, Code 1995, is amended to read  
8 as follows:

9 554.8401 DUTY OF ISSUER TO REGISTER TRANSFER~~7-PLEDGE7-OR~~  
10 RELEASE.

11 1. If a certificated security in registered form is  
12 presented to the an issuer with a request to register transfer  
13 or an instruction is presented to the an issuer with a request  
14 to register transfer, ~~pledge7-or-release~~ the issuer shall  
15 register the transfer~~7-pledge7-or-release~~ as requested if:

16 a. ~~the security is endorsed or the instruction was~~  
17 ~~originated by the appropriate person or persons (section~~  
18 ~~554.8300)~~ under the terms of the security by the person  
19 seeking registration of transfer is eligible to have the  
20 security registered in its name;

21 b. the indorsement or instruction is made by the  
22 appropriate person or by an agent who has actual authority to  
23 act on behalf of the appropriate person;

24 ~~b. c.~~ reasonable assurance is given that these  
25 endorsements the indorsement or instructions are instruction  
26 is genuine and effective authorized (section 554.8402  
27 554.8403);

28 ~~c. the issuer has no duty as to adverse claims or has~~  
29 ~~discharged the duty (section 554.8403);~~

30 d. any applicable law relating to the collection of taxes  
31 has been complied with; and

32 e. ~~the transfer7-pledge7-or-release is in fact rightful or~~  
33 is to a bona fide purchaser does not violate any restriction  
34 on transfer imposed by the issuer in accordance with section  
35 554.8204.

1 f. a demand that the issuer not register transfer has not  
2 become effective under section 554.8403, or the issuer has  
3 complied with section 554.8403, subsection 2, but no legal  
4 process or indemnity bond is obtained as provided in section  
5 554.8403, subsection 4; and

6 g. the transfer is in fact rightful or is to a protected  
7 purchaser.

8 2. If an issuer is under a duty to register a transfer,  
9 ~~pledge~~ or ~~release~~ of a security, the issuer is also liable to  
10 the a person presenting a certificated security or an  
11 instruction for registration or ~~that~~ to the person's principal  
12 for loss resulting from ~~any~~ unreasonable delay in registration  
13 or ~~from~~ failure or refusal to register the transfer, ~~pledge~~  
14 ~~or release~~.

15 Sec. 37. Section 554.8402, Code 1995, is amended to read  
16 as follows:

17 554.8402 ASSURANCE THAT ENDORSEMENTS-AND-INSTRUCTIONS-ARE  
18 INDORSEMENT OR INSTRUCTION IS EFFECTIVE.

19 1. ~~The~~ An issuer may require the following assurance that  
20 each necessary ~~endorsement-of-a-certificated-security~~  
21 indorsement or each instruction ~~{section-554-8308}~~ is genuine  
22 and effective authorized:

23 a. in all cases, a guarantee of the signature ~~{section~~  
24 ~~554-8312, subsection 1 or 2}~~ of the person endorsing a  
25 ~~certificated-security~~ making an indorsement or originating an  
26 instruction including, in the case of an instruction, a  
27 ~~warranty-of-the-taxpayer-identification-number-or, in the~~  
28 ~~absence thereof, other~~ reasonable assurance of identity;

29 b. if the endorsement is made or the instruction is  
30 originated by an agent, appropriate assurance of actual  
31 authority to sign;

32 c. if the endorsement is made or the instruction is  
33 originated by a fiduciary, pursuant to section 554.8107,  
34 subsection 1, paragraph "d" or subsection 1, paragraph "e",  
35 appropriate evidence of appointment or incumbency;

1 d. if there is more than one fiduciary, reasonable  
2 assurance that all who are required to sign have done so; and  
3 e. if the ~~endorsement~~ indorsement is made or the  
4 instruction is originated by a person not covered by ~~any-of~~  
5 ~~the-foregoing~~ another provision of this subsection, assurance  
6 appropriate to the case corresponding as nearly as may be to  
7 the foregoing provisions of this subsection.

8 2. An issuer may elect to require reasonable assurance  
9 beyond that specified in this section.

10 3. In this section:

11 ~~2. a.~~ A-"guarantee "Guarantee of the signature" in  
12 ~~subsection-1~~ means a guarantee signed by or on behalf of a  
13 person reasonably believed by the issuer to be responsible.  
14 ~~The~~ An issuer may adopt standards with respect to  
15 responsibility if they are not manifestly unreasonable.

16 ~~3. b.~~ "Appropriate evidence of appointment or incumbency"  
17 ~~in-subsection-1~~ means

18 ~~a. (1)~~ in the case of a fiduciary appointed or qualified  
19 by a court, a certificate issued by or under the direction or  
20 supervision of ~~that~~ the court or an officer ~~of-that-court~~  
21 thereof and dated within ~~one-hundred-eighty~~ sixty days before  
22 the date of presentation for transfer, ~~pledge,~~ ~~or-release;~~ or

23 ~~b. (2)~~ in any other case, a copy of a document showing the  
24 appointment or a certificate issued by or on behalf of a  
25 person reasonably believed by ~~the~~ an issuer to be responsible  
26 or, in the absence of that document or certificate, other  
27 evidence ~~the issuer~~ reasonably deemed-by-the-issuer-to-be  
28 considers appropriate. ~~The-issuer-may-adopt-standards-with~~  
29 ~~respect-to-the-evidence-if-they-are-not-manifestly~~  
30 ~~unreasonable.--The-issuer-is-not-charged-with-notice-of-the~~  
31 ~~contents-of-any-document-obtained-pursuant-to-this-paragraph~~  
32 ~~"b"-except-to-the-extent-that-the-contents-relate-directly-to~~  
33 ~~the-appointment-or-incumbency.~~

34 ~~4.--The-issuer-may-elect-to-require-reasonable-assurance~~  
35 ~~beyond-that-specified-in-this-section,-but-if-it-does-so-and,~~

1 ~~for a purpose other than that specified in subsection 3-"b"~~  
2 ~~both requires and obtains a copy of a will, trust, indenture,~~  
3 ~~articles of copartnership, bylaws, or other controlling~~  
4 ~~instrument, it is charged with notice of all matters contained~~  
5 ~~therein affecting the transfer, pledge, or release.~~

6 Sec. 38. Section 554.8403, Code 1995, is amended by  
7 striking the section and inserting in lieu thereof the  
8 following:

9 554.8403 DEMAND THAT ISSUER NOT REGISTER TRANSFER.

10 1. A person who is an appropriate person to make an  
11 indorsement or originate an instruction may demand that the  
12 issuer not register transfer of a security by communicating to  
13 the issuer a notification that identifies the registered owner  
14 and the issue of which the security is a part and provides an  
15 address for communications directed to the person making the  
16 demand. The demand is effective only if it is received by the  
17 issuer at a time and in a manner affording the issuer  
18 reasonable opportunity to act on it.

19 2. If a certificated security in registered form is  
20 presented to an issuer with a request to register transfer or  
21 an instruction is presented to an issuer with a request to  
22 register transfer of an uncertificated security after a demand  
23 that the issuer not register transfer has become effective,  
24 the issuer shall promptly communicate to (1) the person who  
25 initiated the demand at the address provided in the demand,  
26 and (2) the person who presented the security for registration  
27 of transfer or initiated the instruction requesting  
28 registration of transfer a notification stating that:

29 a. the certificated security has been presented for  
30 registration of transfer or the instruction for registration  
31 of transfer of the uncertificated security has been received;

32 b. a demand that the issuer not register transfer had  
33 previously been received; and

34 c. the issuer will withhold registration of transfer for a  
35 period of time stated in the notification in order to provide

1 the person who initiated the demand an opportunity to obtain  
2 legal process or an indemnity bond.

3 3. The period described in subsection 2, paragraph "c",  
4 not exceed thirty days after the date of communication of the  
5 notification. A shorter period may be specified by the issuer  
6 if it is not manifestly unreasonable.

7 4. An issuer is not liable to a person who initiated a  
8 demand that the issuer not register transfer for any loss the  
9 person suffers as a result of registration of a transfer  
10 pursuant to an effective indorsement or instruction if the  
11 person who initiated the demand does not, within the time  
12 stated in the issuer's communication, either:

13 a. obtain an appropriate restraining order, injunction, or  
14 other process from a court of competent jurisdiction enjoining  
15 the issuer from registering the transfer; or

16 b. file with the issuer an indemnity bond, sufficient in  
17 the issuer's judgment to protect the issuer and any transfer  
18 agent, registrar, or other agent of the issuer involved from  
19 any loss it or they may suffer by refusing to register the  
20 transfer.

21 5. This section does not relieve an issuer from liability  
22 for registering transfer pursuant to an indorsement or  
23 instruction that was not effective.

24 Sec. 39. Section 554.8404, Code 1995, is amended by  
25 striking the section and inserting in lieu thereof the  
26 following:

27 554.8404 WRONGFUL REGISTRATION.

28 1. Except as otherwise provided in section 554.8406, an  
29 issuer is liable for wrongful registration of transfer if the  
30 issuer has registered a transfer of a security to a person not  
31 entitled to it, and the transfer was registered:

32 a. pursuant to an ineffective indorsement or instruction;

33 b. after a demand that the issuer not register transfer  
34 became effective under section 554.8403, subsection 1, and the  
35 issuer did not comply with section 554.8403, subsection 2;

1 c. after the issuer had been served with an injunction,  
2 restraining order, or other legal process enjoining it from  
3 registering the transfer, issued by a court of competent  
4 jurisdiction, and the issuer had a reasonable opportunity to  
5 act on the injunction, restraining order, or other legal  
6 process; or

7 d. by an issuer acting in collusion with the wrongdoer.

8 2. An issuer that is liable for wrongful registration of  
9 transfer under subsection 1 on demand shall provide the person  
10 entitled to the security with a like certificated or  
11 uncertificated security, and any payments or distributions  
12 that the person did not receive as a result of the wrongful  
13 registration. If an overissue would result, the issuer's  
14 liability to provide the person with a like security is  
15 governed by section 554.8210.

16 3. Except as otherwise provided in subsection 1 or in a  
17 law relating to the collection of taxes, an issuer is not  
18 liable to an owner or other person suffering loss as a result  
19 of the registration of a transfer of a security if  
20 registration was made pursuant to an effective indorsement or  
21 instruction.

22 Sec. 40. Section 554.8405, Code 1995, is amended by  
23 striking the section and inserting in lieu thereof the  
24 following:

25 554.8405 REPLACEMENT OF LOST, DESTROYED, OR WRONGFULLY  
26 TAKEN SECURITY CERTIFICATE.

27 1. If an owner of a certificated security, whether in  
28 registered or bearer form, claims that the certificate has  
29 been lost, destroyed, or wrongfully taken, the issuer shall  
30 issue a new certificate if the owner:

31 a. so requests before the issuer has notice that the  
32 certificate has been acquired by a protected purchaser;

33 b. files with the issuer a sufficient indemnity bond; and

34 c. satisfies other reasonable requirements imposed by the  
35 issuer.

1 2. If, after the issue of a new security certificate, a  
2 protected purchaser of the original certificate presents it  
3 for registration of transfer, the issuer shall register the  
4 transfer unless an overissue would result. In that case, the  
5 issuer's liability is governed by section 554.8210. In  
6 addition to any rights on the indemnity bond, an issuer may  
7 recover the new certificate from a person to whom it was  
8 issued or any person taking under that person, except a  
9 protected purchaser.

10 Sec. 41. Section 554.8406, Code 1995, is amended by  
11 striking the section and inserting in lieu thereof the  
12 following:

13 554.8406 OBLIGATION TO NOTIFY ISSUER OF LOST, DESTROYED,  
14 OR WRONGFULLY TAKEN SECURITY CERTIFICATE.

15 If a security certificate has been lost, apparently  
16 destroyed, or wrongfully taken, and the owner fails to notify  
17 the issuer of that fact within a reasonable time after the  
18 owner has notice of it and the issuer registers a transfer of  
19 the security before receiving notification, the owner may not  
20 assert against the issuer a claim for registering the transfer  
21 under section 554.8404 or a claim to a new security  
22 certificate under section 554.8405.

23 Sec. 42. Section 554.8407, Code 1995, is amended by  
24 striking the section and inserting in lieu thereof the  
25 following:

26 554.8407 AUTHENTICATING TRUSTEE, TRANSFER AGENT, AND  
27 REGISTRAR.

28 A person acting as authenticating trustee, transfer agent,  
29 registrar, or other agent for an issuer in the registration of  
30 a transfer of its securities, in the issue of new security  
31 certificates or uncertificated securities, or in the  
32 cancellation of surrendered security certificates has the same  
33 obligation to the holder or owner of a certificated or  
34 uncertificated security with regard to the particular  
35 functions performed as the issuer has in regard to those



1 functions.

2

PART 5

3

SECURITY ENTITLEMENTS

4 Sec. 43. NEW SECTION. 554.8501 SECURITIES ACCOUNT --  
5 ACQUISITION OF SECURITY ENTITLEMENT FROM SECURITIES  
6 INTERMEDIARY.

7 1. "Securities account" means an account to which a  
8 financial asset is or may be credited in accordance with an  
9 agreement under which the person maintaining the account  
10 undertakes to treat the person for whom the account is  
11 maintained as entitled to exercise the rights that comprise  
12 the financial asset.

13 2. Except as otherwise provided in subsections 4 and 5, a  
14 person acquires a security entitlement if a securities  
15 intermediary:

16 a. indicates by book entry that a financial asset has been  
17 credited to the person's securities account;

18 b. receives a financial asset from the person or acquires  
19 a financial asset for the person and, in either case, accepts  
20 it for credit to the person's securities account; or

21 c. becomes obligated under other law, regulation, or rule  
22 to credit a financial asset to the person's securities  
23 account.

24 3. If a condition of subsection 2 has been met, a person  
25 has a security entitlement even though the securities  
26 intermediary does not itself hold the financial asset.

27 4. If a securities intermediary holds a financial asset  
28 for another person, and the financial asset is registered in  
29 the name of, payable to the order of, or specially indorsed to  
30 the other person, and has not been indorsed to the securities  
31 intermediary or in blank, the other person is treated as  
32 holding the financial asset directly rather than as having a  
33 security entitlement with respect to the financial asset.

34 5. Issuance of a security is not establishment of a  
35 security entitlement.

1     Sec. 44. NEW SECTION. 554.8502 ASSERTION OF ADVERSE  
2 CLAIM AGAINST ENTITLEMENT HOLDER.

3     An action based on an adverse claim to a financial asset,  
4 whether framed in conversion, replevin, constructive trust,  
5 equitable lien, or other theory, may not be asserted against a  
6 person who acquires a security entitlement under section  
7 554.8501 for value and without notice of the adverse claim.

8     Sec. 45. NEW SECTION. 554.8503 PROPERTY INTEREST OF  
9 ENTITLEMENT HOLDER IN FINANCIAL ASSET HELD BY SECURITIES  
10 INTERMEDIARY.

11     1. To the extent necessary for a securities intermediary  
12 to satisfy all security entitlements with respect to a  
13 particular financial asset, all interests in that financial  
14 asset held by the securities intermediary are held by the  
15 securities intermediary for the entitlement holders, are not  
16 property of the securities intermediary, and are not subject  
17 to claims of creditors of the securities intermediary, except  
18 as otherwise provided in section 554.8511.

19     2. An entitlement holder's property interest with respect  
20 to a particular financial asset under subsection 1 is a pro  
21 rata property interest in all interests in that financial  
22 asset held by the securities intermediary, without regard to  
23 the time the entitlement holder acquired the security  
24 entitlement or the time the securities intermediary acquired  
25 the interest in that financial asset.

26     3. An entitlement holder's property interest with respect  
27 to a particular financial asset under subsection 1 may be  
28 enforced against the securities intermediary only by exercise  
29 of the entitlement holder's rights under sections 554.8505  
30 through 554.8508.

31     4. An entitlement holder's property interest with respect  
32 to a particular financial asset under subsection 1 may be  
33 enforced against a purchaser of the financial asset or  
34 interest therein only if:

35     a. insolvency proceedings have been initiated by or

1 against the securities intermediary;  
2 b. the securities intermediary does not have sufficient  
3 interests in the financial asset to satisfy the security  
4 entitlements of all of its entitlement holders to that  
5 financial asset;  
6 c. the securities intermediary violated its obligations  
7 under section 554.8504 by transferring the financial asset or  
8 interest therein to the purchaser; and  
9 d. the purchaser is not protected under subsection 5. The  
10 trustee or other liquidator, acting on behalf of all  
11 entitlement holders having security entitlements with respect  
12 to a particular financial asset, may recover the financial  
13 asset, or interest therein, from the purchaser. If the  
14 trustee or other liquidator elects not to pursue that right,  
15 an entitlement holder whose security entitlement remains  
16 unsatisfied has the right to recover its interest in the  
17 financial asset from the purchaser.  
18 5. An action based on the entitlement holder's property  
19 interest with respect to a particular financial asset under  
20 subsection 1, whether framed in conversion, replevin,  
21 constructive trust, equitable lien, or other theory, may not  
22 be asserted against any purchaser of a financial asset or  
23 interest therein who gives value, obtains control, and does  
24 not act in collusion with the securities intermediary in  
25 violating the securities intermediary's obligations under  
26 section 554.8504.

27 Sec. 46. NEW SECTION. 554.8504 DUTY OF SECURITIES  
28 INTERMEDIARY TO MAINTAIN FINANCIAL ASSET.

29 1. A securities intermediary shall promptly obtain and  
30 thereafter maintain a financial asset in a quantity  
31 corresponding to the aggregate of all security entitlements it  
32 has established in favor of its entitlement holders with  
33 respect to that financial asset. The securities intermediary  
34 may maintain those financial assets directly or through one or  
35 more other securities intermediaries.

1 2. Except to the extent otherwise agreed by its  
2 entitlement holder, a securities intermediary may not grant  
3 any security interests in a financial asset it is obligated to  
4 maintain pursuant to subsection 1.

5 3. A securities intermediary satisfies the duty in  
6 subsection 1 if:

7 a. the securities intermediary acts with respect to the  
8 duty as agreed upon by the entitlement holder and the  
9 securities intermediary; or

10 b. in the absence of agreement, the securities  
11 intermediary exercises due care in accordance with reasonable  
12 commercial standards to obtain and maintain the financial  
13 asset.

14 4. This section does not apply to a clearing corporation  
15 that is itself the obligor of an option or similar obligation  
16 to which its entitlement holders have security entitlements.

17 Sec. 47. NEW SECTION. 554.8505 DUTY OF SECURITIES  
18 INTERMEDIARY WITH RESPECT TO PAYMENTS AND DISTRIBUTIONS.

19 1. A securities intermediary shall take action to obtain a  
20 payment or distribution made by the issuer of a financial  
21 asset. A securities intermediary satisfies the duty if:

22 a. the securities intermediary acts with respect to the  
23 duty as agreed upon by the entitlement holder and the  
24 securities intermediary; or

25 b. in the absence of agreement, the securities  
26 intermediary exercises due care in accordance with reasonable  
27 commercial standards to attempt to obtain the payment or  
28 distribution.

29 2. A securities intermediary is obligated to its  
30 entitlement holder for a payment or distribution made by the  
31 issuer of a financial asset if the payment or distribution is  
32 received by the securities intermediary.

33 Sec. 48. NEW SECTION. 554.8506 DUTY OF SECURITIES  
34 INTERMEDIARY TO EXERCISE RIGHTS AS DIRECTED BY ENTITLEMENT  
35 HOLDER.

1 A securities intermediary shall exercise rights with  
2 respect to a financial asset if directed to do so by an  
3 entitlement holder. A securities intermediary satisfies the  
4 duty if:

5 1. the securities intermediary acts with respect to the  
6 duty as agreed upon by the entitlement holder and the  
7 securities intermediary; or

8 2. in the absence of agreement, the securities  
9 intermediary either places the entitlement holder in a  
10 position to exercise the rights directly or exercises due care  
11 in accordance with reasonable commercial standards to follow  
12 the direction of the entitlement holder.

13 Sec. 49. NEW SECTION. 554.8507 DUTY OF SECURITIES  
14 INTERMEDIARY TO COMPLY WITH ENTITLEMENT ORDER.

15 1. A securities intermediary shall comply with an  
16 entitlement order if the entitlement order is originated by  
17 the appropriate person, the securities intermediary has had  
18 reasonable opportunity to assure itself that the entitlement  
19 order is genuine and authorized, and the securities  
20 intermediary has had reasonable opportunity to comply with the  
21 entitlement order. A securities intermediary satisfies the  
22 duty if:

23 a. the securities intermediary acts with respect to the  
24 duty as agreed upon by the entitlement holder and the  
25 securities intermediary; or

26 b. in the absence of agreement, the securities  
27 intermediary exercises due care in accordance with reasonable  
28 commercial standards to comply with the entitlement order.

29 2. If a securities intermediary transfers a financial  
30 asset pursuant to an ineffective entitlement order, the  
31 securities intermediary shall reestablish a security  
32 entitlement in favor of the person entitled to it, and pay or  
33 credit any payments or distributions that the person did not  
34 receive as a result of the wrongful transfer. If the  
35 securities intermediary does not reestablish a security

1 entitlement, the securities intermediary is liable to the

2

3 Sec. 50. NEW SECTION. 554.8508 DUTY OF SECURITIES  
4 INTERMEDIARY TO CHANGE ENTITLEMENT HOLDER'S POSITION TO OTHER  
5 FORM OF SECURITY HOLDING.

6 A securities intermediary shall act at the direction of an  
7 entitlement holder to change a security entitlement into  
8 another available form of holding for which the entitlement  
9 holder is eligible, or to cause the financial asset to be  
10 transferred to a securities account of the entitlement holder  
11 with another securities intermediary. A securities  
12 intermediary satisfies the duty if:

13 1. the securities intermediary acts as agreed upon by the  
14 entitlement holder and the securities intermediary; or

15 2. in the absence of agreement, the securities  
16 intermediary exercises due care in accordance with reasonable  
17 commercial standards to follow the direction of the  
18 entitlement holder.

19 Sec. 51. NEW SECTION. 554.8509 SPECIFICATION OF DUTIES  
20 OF SECURITIES INTERMEDIARY BY OTHER STATUTE OR REGULATION --  
21 MANNER OF PERFORMANCE OF DUTIES OF SECURITIES INTERMEDIARY AND  
22 EXERCISE OF RIGHTS OF ENTITLEMENT HOLDER.

23 1. If the substance of a duty imposed upon a securities  
24 intermediary by sections 554.8504 through 554.8508 is the  
25 subject of other statute, regulation, or rule, compliance with  
26 that statute, regulation, or rule satisfies the duty.

27 2. To the extent that specific standards for the  
28 performance of the duties of a securities intermediary or the  
29 exercise of the rights of an entitlement holder are not  
30 specified by other statute, regulation, or rule or by  
31 agreement between the securities intermediary and entitlement  
32 holder, the securities intermediary shall perform its duties  
33 and the entitlement holder shall exercise its rights in a  
34 commercially reasonable manner.

35 3. The obligation of a securities intermediary to perform

1 the duties imposed by sections 554.8504 through 554.8508 is  
2 subject to:

3 a. rights of the securities intermediary arising out of a  
4 security interest under a security agreement with the  
5 entitlement holder or otherwise; and

6 b. rights of the securities intermediary under other law,  
7 regulation, rule, or agreement to withhold performance of its  
8 duties as a result of unfulfilled obligations of the  
9 entitlement holder to the securities intermediary.

10 4. Sections 554.8504 through 554.8508 do not require a  
11 securities intermediary to take any action that is prohibited  
12 by other statute, regulation, or rule.

13 Sec. 52. NEW SECTION. 554.8510 RIGHTS OF PURCHASER OF  
14 SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER.

15 1. An action based on an adverse claim to a financial  
16 asset or security entitlement, whether framed in conversion,  
17 replevin, constructive trust, equitable lien, or other theory,  
18 may not be asserted against a person who purchases a security  
19 entitlement, or an interest therein, from an entitlement  
20 holder if the purchaser gives value, does not have notice of  
21 the adverse claim, and obtains control.

22 2. If an adverse claim could not have been asserted  
23 against an entitlement holder under section 554.8502, the  
24 adverse claim cannot be asserted against a person who  
25 purchases a security entitlement, or an interest therein, from  
26 the entitlement holder.

27 3. In a case not covered by the priority rules in Article  
28 9, a purchaser for value of a security entitlement, or an  
29 interest therein, who obtains control has priority over a  
30 purchaser of a security entitlement, or an interest therein,  
31 who does not obtain control. Purchasers who have control rank  
32 equally, except that a securities intermediary as purchaser  
33 has priority over a conflicting purchaser who has control  
34 unless otherwise agreed by the securities intermediary.

35 Sec. 53. NEW SECTION. 554.8511 PRIORITY AMONG SECURITY

1 INTERESTS AND ENTITLEMENT HOLDERS.

2 1. Except as otherwise provided in subsections 2 and 3, if  
3 a securities intermediary does not have sufficient interests  
4 in a particular financial asset to satisfy both its  
5 obligations to entitlement holders who have security  
6 entitlements to that financial asset and its obligation to a  
7 creditor of the securities intermediary who has a security  
8 interest in that financial asset, the claims of entitlement  
9 holders, other than the creditor, have priority over the claim  
10 of the creditor.

11 2. A claim of a creditor of a securities intermediary who  
12 has a security interest in a financial asset held by a  
13 securities intermediary has priority over claims of the  
14 securities intermediary's entitlement holders who have  
15 security entitlements with respect to that financial asset if  
16 the creditor has control over the financial asset.

17 3. If a clearing corporation does not have sufficient  
18 financial assets to satisfy both its obligations to  
19 entitlement holders who have security entitlements with  
20 respect to a financial asset and its obligation to a creditor  
21 of the clearing corporation who has a security interest in  
22 that financial asset, the claim of the creditor has priority  
23 over the claims of entitlement holders.

24 Sec. 54. Section 554.9103, subsection 6, Code 1995, is  
25 amended by striking the subsection and inserting in lieu  
26 thereof the following:

27 6. INVESTMENT PROPERTY.

28 a. This subsection applies to investment property.

29 b. Except as otherwise provided in paragraph "f", during  
30 the time that a security certificate is located in a  
31 jurisdiction, perfection of a security interest, the effect of  
32 perfection or nonperfection, and the priority of a security  
33 interest in the certificated security represented thereby are  
34 governed by the local law of that jurisdiction.

35 c. Except as otherwise provided in paragraph "f",



1 perfection of a security interest, the effect of perfection or  
2 non-perfection, and the priority of a security interest in an  
3 uncertificated security are governed by the local law of the  
4 issuer's jurisdiction as specified in section 554.8110,  
5 subsection 4.

6 d. Except as otherwise provided in paragraph "f",  
7 perfection of a security interest, the effect of perfection or  
8 non-perfection, and the priority of a security interest in a  
9 security entitlement or securities account are governed by the  
10 local law of the securities intermediary's jurisdiction as  
11 specified in section 554.8110, subsection 5.

12 e. Except as otherwise provided in paragraph "f",  
13 perfection of a security interest, the effect of perfection or  
14 non-perfection, and the priority of a security interest in a  
15 commodity contract or commodity account are governed by the  
16 local law of the commodity intermediary's jurisdiction. The  
17 following rules determine a "commodity intermediary's  
18 jurisdiction" for purposes of this paragraph:

19 (1) If an agreement between the commodity intermediary and  
20 commodity customer specifies that it is governed by the law of  
21 a particular jurisdiction, that jurisdiction is the commodity  
22 intermediary's jurisdiction.

23 (2) If an agreement between the commodity intermediary and  
24 commodity customer does not specify the governing law as  
25 provided in subparagraph (1), but expressly specifies that the  
26 commodity account is maintained at an office in a particular  
27 jurisdiction, that jurisdiction is the commodity  
28 intermediary's jurisdiction.

29 (3) If an agreement between the commodity intermediary and  
30 commodity customer does not specify a jurisdiction as provided  
31 in subparagraph (1) or (2), the commodity intermediary's  
32 jurisdiction is the jurisdiction in which is located the  
33 office identified in an account statement as the office  
34 serving the commodity customer's account.

35 (4) If an agreement between the commodity intermediary and

1 commodity customer does not specify a jurisdiction as provided  
2 in subparagraph (1) or (2) and an account statement does not  
3 identify an office serving the commodity customer's account as  
4 provided in subparagraph (3), the commodity intermediary's  
5 jurisdiction is the jurisdiction in which is located the chief  
6 executive office of the commodity intermediary.

7 f. Perfection of a security interest by filing, automatic  
8 perfection of a security interest in investment property  
9 granted by a broker or securities intermediary, and automatic  
10 perfection of a security interest in a commodity contract or  
11 commodity account granted by a commodity intermediary are  
12 governed by the local law of the jurisdiction in which the  
13 debtor is located.

14 Sec. 55. Section 554.9105, subsection 1, paragraphs h and  
15 i, Code 1995, are amended to read as follows:

16 h. "Goods" include all things which are movable at the  
17 time the security interest attaches or which are fixtures  
18 (section 554.9313), but do not include money, documents,  
19 instruments, investment property, accounts, chattel paper,  
20 general intangibles or minerals or the like (including oil and  
21 gas) before extraction. "Goods" also include standing timber  
22 which is to be cut and removed under a conveyance or contract  
23 for sale, the unborn young of animals and growing crops;

24 i. "Instrument" means a negotiable instrument (defined in  
25 section 554.3104), ~~or a certificated security (defined in~~  
26 ~~section 554.8102)~~ or any other writing which evidences a right  
27 to the payment of money and is not itself a security agreement  
28 or lease and is of a type which is in ordinary course of  
29 business transferred by delivery with any necessary  
30 endorsement or assignment. The term does not include  
31 investment property;

32 Sec. 56. Section 554.9105, subsection 2, Code 1995, is  
33 amended to read as follows:

34 2. Other definitions applying to this Article and the  
35 sections in which they appear are:

1	"Account"	Section 554.9106
2	"Attach"	Section 554.9203
3	<u>"Commodity contract"</u>	Section 554.9115
4	<u>"Commodity customer"</u>	Section 554.9115
5	<u>"Commodity intermediary"</u>	Section 554.9115
6	"Construction mortgage"	Section 554.9313(1)
7	"Consumer goods"	Section 554.9109(1)
8	"Equipment"	Section 554.9109(2)
9	"Farm products"	Section 554.9109(3)
10	"Fixture"	Section 554.9313
11	"Fixture filing"	Section 554.9313
12	"General intangibles"	Section 554.9106
13	"Inventory"	Section 554.9109(4)
14	<u>"Investment property"</u>	Section 554.9115
15	"Lien creditor"	Section 554.9301(3)
16	"Proceeds"	Section 554.9306(1)
17	"Purchase money security	
18	interest"	Section 554.9107
19	"United States"	Section 554.9103

20 Sec. 57. Section 554.9105, subsection 3, Code 1995, is  
 21 amended to read as follows:

22 3. The following definitions in other Articles apply to  
 23 this Article:

24	<u>"Broker"</u>	Section 554.8102
25	<u>"Certificated security"</u>	Section 554.8102
26	"Check"	Section 554.3104
27	<u>"Clearing corporation"</u>	Section 554.8102
28	"Contract for sale"	Section 554.2106
29	<u>"Control"</u>	Section 554.8106
30	<u>"Delivery"</u>	Section 554.8301
31	<u>"Entitlement holder"</u>	Section 554.8102
32	<u>"Financial asset"</u>	Section 554.8102
33	"Holder in due course"	Section 554.3302
34	"Note"	Section 554.3104
35	"Sale"	Section 554.2106

1	<u>"Securities intermediary"</u>	Section 554.8102
2	<u>"Security"</u>	Section 554.8102
3	<u>"Security certificate"</u>	Section 554.8102
4	<u>"Security entitlement"</u>	Section 554.8102
5	<u>"Uncertificated security"</u>	Section 554.8102

6 Sec. 58. Section 554.9106, Code 1995, is amended to read  
7 as follows:

8 554.9106 DEFINITIONS: "ACCOUNT" -- "GENERAL INTANGIBLES."

9 "Account" means any right to payment for goods sold or  
10 leased or for services rendered which is not evidenced by an  
11 instrument or chattel paper, whether or not it has been earned  
12 by performance. "General intangibles" means any personal  
13 property (including things in action) other than goods,  
14 accounts, chattel paper, documents, instruments, investment  
15 property, and money. All rights to payment earned or unearned  
16 under a charter or other contract involving the use or hire of  
17 a vessel and all rights incident to the charter or contract  
18 are accounts.

19 Sec. 59. NEW SECTION. 554.9115 INVESTMENT PROPERTY.

20 1. In this Article:

21 a. "Commodity account" means an account maintained by a  
22 commodity intermediary in which a commodity contract is  
23 carried for a commodity customer.

24 b. "Commodity contract" means a commodity futures  
25 contract, an option on a commodity futures contract, a  
26 commodity option, or other contract that, in each case, is:

27 (1) traded on or subject to the rules of a board of trade  
28 that has been designated as a contract market for such a  
29 contract pursuant to the federal commodities laws; or

30 (2) traded on a foreign commodity board of trade,  
31 exchange, or market, and is carried on the books of a  
32 commodity intermediary for a commodity customer.

33 c. "Commodity customer" means a person for whom a  
34 commodity intermediary carries a commodity contract on its  
35 books.

1 d. "Commodity intermediary" means:

2 (1) a person who is registered as a futures commission  
3 merchant under the federal commodities laws; or

4 (2) a person who in the ordinary course of its business  
5 provides clearance or settlement services for a board of trade  
6 that has been designated as a contract market pursuant to the  
7 federal commodities laws.

8 e. "Control" with respect to a certificated security,  
9 uncertificated security, or security entitlement has the  
10 meaning specified in section 554.8106. A secured party has  
11 control over a commodity contract if by agreement among the  
12 commodity customer, the commodity intermediary, and the  
13 secured party, the commodity intermediary has agreed that it  
14 will apply any value distributed on account of the commodity  
15 contract as directed by the secured party without further  
16 consent by the commodity customer. If a commodity customer  
17 grants a security interest in a commodity contract to its own  
18 commodity intermediary, the commodity intermediary as secured  
19 party has control. A secured party has control over a  
20 securities account or commodity account if the secured party  
21 has control over all security entitlements or commodity  
22 contracts carried in the securities account or commodity  
23 account.

24 f. "Investment property" means:

25 (1) a security, whether certificated or uncertificated;

26 (2) a security entitlement;

27 (3) a securities account;

28 (4) a commodity contract; or

29 (5) a commodity account.

30 2. Attachment or perfection of a security interest in a  
31 securities account is also attachment or perfection of a  
32 security interest in all security entitlements carried in the  
33 securities account. Attachment or perfection of a security  
34 interest in a commodity account is also attachment or  
35 perfection of a security interest in all commodity contracts

1 carried in the commodity account.

2 3. A description of collateral in a security agreement or  
3 financing statement is sufficient to create or perfect a  
4 security interest in a certificated security, uncertificated  
5 security, security entitlement, securities account, commodity  
6 contract, or commodity account whether it describes the  
7 collateral by those terms, or as investment property, or by  
8 description of the underlying security, financial asset, or  
9 commodity contract. A description of investment property  
10 collateral in a security agreement or financing statement is  
11 sufficient if it identifies the collateral by specific  
12 listing, by category, by quantity, by a computational or  
13 allocational formula or procedure, or by any other method, if  
14 the identity of the collateral is objectively determinable.

15 4. Perfection of a security interest in investment  
16 property is governed by the following rules:

17 a. a security interest in investment property may be  
18 perfected by control.

19 b. except as otherwise provided in paragraphs "c" and "d",  
20 a security interest in investment property may be perfected by  
21 filing.

22 c. if the debtor is a broker or securities intermediary, a  
23 security interest in investment property is perfected when it  
24 attaches. The filing of a financing statement with respect to  
25 a security interest in investment property granted by a broker  
26 or securities intermediary has no effect for purposes of  
27 perfection or priority with respect to that security interest.

28 d. if a debtor is a commodity intermediary, a security  
29 interest in a commodity contract or a commodity account is  
30 perfected when it attaches. The filing of a financing  
31 statement with respect to a security interest in a commodity  
32 contract or a commodity account granted by a commodity  
33 intermediary has no effect for purposes of perfection or  
34 priority with respect to that security interest.

35 e. priority between conflicting security interests in the

1 same investment property is governed by the following rules:

2 (1) a security interest of a secured party who has control  
3 over investment property has priority over a security interest  
4 of a secured party who does not have control over the  
5 investment property.

6 (2) except as otherwise provided in paragraphs "c" and  
7 "d", conflicting security interests of secured parties each of  
8 whom has control rank equally.

9 (3) except as otherwise agreed by the securities  
10 intermediary, a security interest in a security entitlement or  
11 a securities account granted to the debtor's own securities  
12 intermediary has priority over any security interest granted  
13 by the debtor to another secured party.

14 (4) except as otherwise agreed by the commodity  
15 intermediary, a security interest in a commodity contract or a  
16 commodity account granted to the debtor's own commodity  
17 intermediary has priority over any security interest granted  
18 by the debtor to another secured party.

19 (5) conflicting security interests granted by a broker, a  
20 securities intermediary, or a commodity intermediary which are  
21 perfected without control rank equally.

22 (6) in all other cases, priority between conflicting  
23 security interests in investment property is governed by  
24 section 554.9312, subsections 5, 6, and 7. Section 554.9312,  
25 subsection 4, does not apply to investment property.

26 f. if a security certificate in registered form is  
27 delivered to a secured party pursuant to agreement, a written  
28 security agreement is not required for attachment or  
29 enforceability of the security interest, delivery suffices for  
30 perfection of the security interest, and the security interest  
31 has priority over a conflicting security interest perfected by  
32 means other than control, even if a necessary indorsement is  
33 lacking.

34 Sec. 60. NEW SECTION. 554.9116 SECURITY INTEREST ARISING  
35 IN PURCHASE OR DELIVERY OF FINANCIAL ASSET.

1 1. If a person buys a financial asset through a securities  
2 intermediary in a transaction in which the buyer is obligated  
3 to pay the purchase price to the securities intermediary at  
4 the time of the purchase, and the securities intermediary  
5 credits the financial asset to the buyer's securities account  
6 before the buyer pays the securities intermediary, the  
7 securities intermediary has a security interest in the buyer's  
8 security entitlement securing the buyer's obligation to pay.  
9 A security agreement is not required for attachment or  
10 enforceability of the security interest, and the security  
11 interest is automatically perfected.

12 2. If a certificated security, or other financial asset  
13 represented by a writing which in the ordinary course of  
14 business is transferred by delivery with any necessary  
15 indorsement or assignment is delivered pursuant to an  
16 agreement between persons in the business of dealing with such  
17 securities or financial assets and the agreement calls for  
18 delivery versus payment, the person delivering the certificate  
19 or other financial asset has a security interest in the  
20 certificated security or other financial asset securing the  
21 seller's right to receive payment. A security agreement is  
22 not required for attachment or enforceability of the security  
23 interest, and the security interest is automatically  
24 perfected.

25 Sec. 61. Section 554.9203, subsection 1, Code 1995, is  
26 amended to read as follows:

27 1. Subject to the provisions of section 554.4210 on the  
28 security interest of a collecting bank, ~~section-554-8321-on~~  
29 ~~security-interests-in-securities~~ sections 554.9115 and  
30 554.9116 on security interest in investment property, and  
31 section 554.9113 on a security interest arising under the  
32 Article on Sales, a security interest is not enforceable  
33 against the debtor or third parties with respect to the  
34 collateral and does not attach unless:

35 a. the collateral is in the possession of the secured



1 party pursuant to agreement, the collateral is investment  
2 property and the secured party has control pursuant to  
3 agreement, or the debtor has signed a security agreement which  
4 contains a description of the collateral and in addition, when  
5 the security interest covers crops growing or to be grown or  
6 timber to be cut, a description of the land concerned;

- 7 b. value has been given; and
- 8 c. the debtor has rights in the collateral.

9 Sec. 62. Section 554.9301, subsection 1, paragraph d, Code  
10 1995, is amended to read as follows:

11 d. in the case of accounts, and general intangibles, and  
12 investment property, a person who is not a secured party and  
13 who is a transferee to the extent that that person gives value  
14 without knowledge of the security interest and before it is  
15 perfected.

16 Sec. 63. Section 554.9302, subsection 1, paragraphs b, f,  
17 and g, Code 1995, are amended to read as follows:

18 b. a security interest temporarily perfected in  
19 instruments, certificated securities, or documents without  
20 delivery under section 554.9304 or in proceeds for a ten-day  
21 period under section 554.9306;

22 f. a security interest of a collecting bank (section  
23 554.4210) ~~or in securities (section 554.8321)~~ or arising under  
24 the Article on Sales (see section 554.9113) or covered in  
25 subsection 3 of this section;

26 g. an assignment for the benefit of all the creditors of  
27 the transferor, and subsequent transfers by the assignee  
28 thereunder;

29 Sec. 64. Section 554.9302, subsection 1, Code 1995, is  
30 amended by adding the following new paragraph:

31 NEW PARAGRAPH. h. a security interest in investment  
32 property which is perfected without filing under section  
33 554.9115 or section 554.9116.

34 Sec. 65. Section 554.9303, subsection 1, Code 1995, is  
35 amended to read as follows:

1 1. A security interest is perfected when it has attached  
2 and when all of the applicable steps required for perfection  
3 have been taken. Such steps are specified in sections  
4 554.9115, 554.9302, 554.9304, 554.9305 and 554.9306. If such  
5 steps are taken before the security interest attaches, it is  
6 perfected at the time when it attaches.

7 Sec. 66. Section 554.9304, subsections 1, 4, and 5, Code  
8 1995, are amended to read as follows:

9 1. A security interest in chattel paper or negotiable  
10 documents may be perfected by filing. A security interest in  
11 money or instruments (other than ~~certificated-securities-or~~  
12 instruments which constitute part of chattel paper) can be  
13 perfected only by the secured party's taking possession,  
14 except as provided in subsections 4 and 5 of this section and  
15 section 554.9306, subsections 2 and 3, on proceeds.

16 4. A security interest in instruments, ~~tother-than a~~  
17 ~~certificated securities}~~, or negotiable documents is perfected  
18 without filing or the taking of possession for a period of  
19 twenty-one days from the time it attaches to the extent that  
20 it arises for new value given under a written security  
21 agreement.

22 5. A security interest remains perfected for a period of  
23 twenty-one days without filing where a secured party having a  
24 perfected security interest in an instrument, ~~tother-than a~~  
25 ~~certificated securities}~~, security, a negotiable document or  
26 goods in possession of a bailee other than one who has issued  
27 a negotiable document therefor

28 a. makes available to the debtor the goods or documents  
29 representing the goods for the purpose of ultimate sale or  
30 exchange or for the purpose of loading, unloading, storing,  
31 shipping, transshipping, manufacturing, processing or  
32 otherwise dealing with them in a manner preliminary to their  
33 sale or exchange, but priority between conflicting security  
34 interests in the goods is subject to section 554.9312,  
35 subsection 3; or

1 b. delivers the instrument or certificated security to the  
2 debtor for the purpose of ultimate sale or exchange or of  
3 presentation, collection, renewal, or registration of  
4 transfer.

5 Sec. 67. Section 554.9305, Code 1995, is amended to read  
6 as follows:

7 554.9305 WHEN POSSESSION BY SECURED PARTY PERFECTS  
8 SECURITY INTEREST WITHOUT FILING.

9 A security interest in letters of credit and advices of  
10 credit (subsection 2 "a" of section 554.5116), goods,  
11 instruments ~~{other-than-certificated-securities}~~, money,  
12 negotiable documents or chattel paper may be perfected by the  
13 secured party's taking possession of the collateral. If such  
14 collateral other than goods covered by a negotiable document  
15 is held by a bailee, the secured party is deemed to have  
16 possession from the time the bailee receives notification of  
17 the secured party's interest. A security interest is  
18 perfected by possession from the time possession is taken  
19 without relation back and continues only so long as possession  
20 is retained, unless otherwise specified in this Article. The  
21 security interest may be otherwise perfected as provided in  
22 this Article before or after the period of possession by the  
23 secured party.

24 Sec. 68. Section 554.9306, subsection 1, Code 1995, is  
25 amended to read as follows:

26 1. "Proceeds" include whatever is received upon the sale,  
27 exchange, collection or other disposition of collateral or  
28 proceeds. Insurance payable by reason of loss or damage to  
29 the collateral is proceeds, except to the extent that it is  
30 payable to a person other than a party to the security  
31 agreement. Any payments or distributions made with respect to  
32 investment property collateral are proceeds. Money, checks,  
33 deposit accounts and the like are "cash proceeds". All other  
34 proceeds are "noncash proceeds".

35 Sec. 69. Section 554.9306, subsection 3, paragraph b, Code

1 1995, is amended to read as follows:

2 b. a filed financing statement covers the original  
3 collateral and the proceeds are identifiable cash proceeds; or  
4 Sec. 70. Section 554.9306, subsection 3, Code 1995, is  
5 amended by adding the following new paragraph after paragraph  
6 b and relettering subsequent paragraphs:

7 NEW PARAGRAPH. c. the original collateral was investment  
8 property and the proceeds are identifiable cash proceeds; or  
9 Sec. 71. Section 554.9309, Code 1995, is amended to read  
10 as follows:

11 554.9309 PROTECTION OF PURCHASERS OF INSTRUMENTS AND  
12 DOCUMENTS AND SECURITIES.

13 Nothing in this Article limits the rights of a holder in  
14 due course of a negotiable instrument (section 554.3302) or a  
15 holder to whom a negotiable document of title has been duly  
16 negotiated (section 554.7501) or a bona-fide protected  
17 purchaser of a security (section ~~554-8302~~ 554.8303) and such  
18 holders or purchasers take priority over an earlier security  
19 interest even though perfected. Filing under this Article  
20 does not constitute notice of the security interest to such  
21 holders or purchasers.

22 Sec. 72. Section 554.9312, subsections 1 and 7, Code 1995,  
23 are amended to read as follows:

24 1. The rules of priority stated in other sections of this  
25 Part and in the following sections shall govern when  
26 applicable: section 554.4210 with respect to the security  
27 interests of collecting banks in items being collected,  
28 accompanying documents and proceeds; section 554.9103 on  
29 security interests related to other jurisdictions; section  
30 554.9114 on consignments; section 554.9115 on security  
31 interest in investment property.

32 7. If future advances are made while a security interest  
33 is perfected by filing, the taking of possession, or under  
34 section ~~554-8321-on-securities~~ 554.9115 or section 554.9116 on  
35 investment property, the security interest has the same

1 priority for the purposes of subsection 5 or section 554.9115,  
2 subsection 5, with respect to the future advances as it does  
3 with respect to the first advance. If a commitment is made  
4 before or while the security interest is so perfected, the  
5 security interest has the same priority with respect to  
6 advances made pursuant thereto. In other cases a perfected  
7 security interest has priority from the date the advance is  
8 made.

9 Sec. 73. Section 554.10104, subsection 2, Code 1995, is  
10 amended by striking the subsection.

11 Sec. 74. SAVINGS CLAUSE.

12 1. This Act does not affect an action or proceeding  
13 commenced before this Act takes effect.

14 2. If a security interest in a security is perfected at  
15 the date this Act takes effect, and the action by which the  
16 security interest was perfected would suffice to perfect a  
17 security interest under this Act, no further action is  
18 required to continue perfection. If a security interest in a  
19 security is perfected at the date this Act takes effect but  
20 the action by which the security interest was perfected would  
21 not suffice to perfect a security interest under this Act, the  
22 security interest remains perfected for a period of four  
23 months after the effective date and continues perfected  
24 thereafter if appropriate action to perfect under this Act is  
25 taken within that period. If a security interest is perfected  
26 at the date this Act takes effect and the security interest  
27 can be perfected by filing under this Act, a financing  
28 statement signed by the secured party instead of the debtor  
29 may be filed within that period to continue perfection or  
30 thereafter to perfect.

31 Sec. 75. REPEALS.

32 1. Sections 554.8308 through 554.8321, Code 1995, are  
33 repealed.

34 2. Section 554.8408, Code 1995, is repealed.

35 Sec. 76. EFFECTIVE DATE. This Act becomes effective on

1 July 1, 1997.

2 EXPLANATION

3 This bill provides for investment securities, by rewriting  
4 Article 8 of the uniform commercial code, as recommended by  
5 the American Law Institute and the National Conference of  
6 Commissioners on Uniform State Laws. The bill provides  
7 commercial law rules applicable to investment securities,  
8 including the holding of investment securities directly by  
9 investors or by persons on behalf of investor clients. The  
10 Article is divided into multiple parts.

11 Part 1 deals with definitions and general matters affecting  
12 the Article. Section 554.8012 provides definitions; section  
13 554.8013 includes provisions for determining whether certain  
14 obligations and interests are securities; section 554.8104  
15 provides for the acquisition of security or financial assets;  
16 section 554.8105 provides procedures for notice of an adverse  
17 claim; section 554.8106 provides for control; section 554.8107  
18 provides for indorsements, instructions, and entitlement  
19 orders; section 554.8108 provides for warranties involving  
20 direct holding; section 554.8109 provides for warranties in  
21 indirect holding; section 554.8110 provides for applicability  
22 and choice of law; section 554.8111 provides for clearing  
23 corporations; section 554.8112 provides for a creditor's legal  
24 processes; section 554.8113 provides for statutes of frauds;  
25 section 554.8114 provides for evidentiary rules concerning  
26 certificated securities; section 554.8115 provides for  
27 security intermediaries; and section 554.8116 provides for  
28 securities intermediaries as purchasers for values.

29 Parts 2, 3, and 4 deal with the rights of persons who hold  
30 securities directly. Under the bill, a person who holds a  
31 security through a broker or securities custodian has a  
32 security entitlement governed by the Part 5, and is not  
33 considered the direct holder of the security.

34 Part 2 is largely unchanged from current Iowa law. It  
35 deals with certain obligations of issuers. According to the

1 Prefactory Note to the model Act, the primary purpose of the  
2 provisions of Part 2 is to apply to investment securities the  
3 principles of negotiable instruments law that preclude the  
4 issuers of negotiable instruments from asserting defenses  
5 against subsequent purchasers. Section 554.8201 provides for  
6 issuers; section 554.8202 provides for an issuer's  
7 responsibility and defenses; section 554.8203 provides notice  
8 of defect or defense based on staleness; section 554.8204  
9 provides for the effect of an issuer's restriction on a  
10 transfer; section 554.8205 provides for the effect of an  
11 unauthorized signature on a security certificate; section  
12 554.8206 provides for completion or alternation of a security  
13 certificate; section 554.8207 provides for the rights and  
14 duties of an issuer; section 554.8208 provides for the effect  
15 of a signature of an authenticating trustee, registrar, or  
16 transfer agent; section 554.8209 provides for an issuer's  
17 lien; and section 554.8210 provides for overissue.

18 Part 3 deals with a transfer for securities held directly.  
19 This part applies to investment securities provisions  
20 regulating negotiable instruments that have protected  
21 purchasers of negotiable instruments against adverse claims.  
22 Section 554.8301 provides for delivery; section 554.8302  
23 provides for the rights of purchasers; section 554.8303  
24 provides for protected purchasers; section 554.8304 provides  
25 for indorsement; section 554.8305 provides for instructions;  
26 section 554.8306 provides for the effect of guaranteeing a  
27 signature, indorsement, or instruction; and section 554.8307  
28 provides for a purchaser's rights.

29 Part 4 deals with the process of registration of transfer  
30 by the issuer or transfer agent. Section 554.8401 provides  
31 for the duty of an issuer to register a transfer; section  
32 554.8402 provides for an assurance that an indorsement or  
33 instruction is effective; section 554.8403 provides for a  
34 demand that an issuer is not registering a transfer; section  
35 554.8404 provides for wrongful registration; section 554.8405

1 provides for the replacement of a lost, destroyed, or  
2 wrongfully taken security certificate; section 554.8406  
3 provides for an obligation to notify an issuer of a lost,  
4 destroyed, or wrongfully taken security certificate; and  
5 section 554.8407 provides for an authenticating trustee,  
6 transfer agency, or registrar.

7 Part 5 applies specifically to the indirect holding of  
8 securities, when one person holds securities on behalf of  
9 another. Part 5 provides for the rights and property interest  
10 associated with a security entitlement. The bill provides  
11 that a person acquires a security entitlement when a  
12 securities intermediary credits the financial asset to the  
13 person's account. A securities intermediary is a clearing  
14 corporation or a person, including a bank or broker, that in  
15 the ordinary course of its business maintains securities  
16 accounts for others. A "clearing agency" includes a federal  
17 reserve bank or any other person that provides clearance or  
18 settlement services with respect to financial assets and is  
19 required to register as such under the federal securities  
20 laws. Section 554.8501 provides for securities accounts and  
21 the acquisition of a security entitlement from a securities  
22 intermediary; section 554.8502 provides for the assertion of  
23 an adverse claim against an entitlement holder; section  
24 554.8503 provides for the property interest of an entitlement  
25 holder in a financial asset held by a securities intermediary;  
26 section 554.8504 provides for the duty of a securities  
27 intermediary to maintain financial assets; section 554.8505  
28 provides for the duty of a securities intermediary regarding  
29 payments and distributions; section 554.8506 provides for the  
30 duty of a securities intermediary to exercise rights as  
31 directed by an entitlement holder; section 554.8507 provides  
32 for the duty of a securities intermediary to comply with an  
33 entitlement order; section 554.8508 provides for a duty of a  
34 securities intermediary to change an entitlement holder's  
35 position to another form of security holder; section 554.8509



1 specifies duties of securities intermediaries and others;  
2 section 554.8510 provides for the rights of purchaser of  
3 securities entitlements from entitlement holders; and section  
4 554.8511 provides for priority among security interests and  
5 entitlement holders

6 Along with the revision of Article 8, the bill provides  
7 related changes in Articles 1, 4, 5, 9, and 10, including a  
8 number of changes concerning security interests in Article 9.

9 Conforming amendments to Articles other than Article 9  
10 include amendments to Article 1 providing general provisions  
11 applicable to the entire chapter, and specifically to section  
12 554.105, relating to the territorial application of the  
13 chapter, and section 554.1206, relating to statute of frauds  
14 for kinds of personal property; Article 4 providing for bank  
15 deposits and collections, and specifically section 554.4104,  
16 relating to definitions; Article 5 providing for letters of  
17 credit, and specifically section 554.5114, relating to an  
18 issuer's duties and rights; and Article 10 providing for the  
19 chapter's effective date and repealer, and specifically for  
20 the application of Article 8.

21 Article 9 provides for secured transactions, and  
22 specifically amends section 554.9103, relating to the  
23 perfection of security interests in multiple state  
24 transactions; section 554.9105, relating to definitions;  
25 section 554.9106, relating to specific definitions for  
26 accounts and general intangibles; section 554.9115, relating  
27 to investment property; section 554.9116, relating to security  
28 interests arising in purchase or delivery of financial assets;  
29 section 554.9203, relating to attachments and enforceability  
30 of security interests; section 554.9301, relating to persons  
31 who take priority over unperfected security interests; section  
32 554.9302, relating to requirements when filing is required to  
33 perfect a security interest; section 554.9303, relating to the  
34 perfection of security interests; section 554.9304, relating  
35 to the perfection of security interests in documents and goods

1 covered by documents; section 554.9305, relating to possession  
2 by a secured party perfecting a security interest without  
3 filing; section 554.9306, relating to a secured party's right  
4 of disposition of collateral; section 554.9309, relating to  
5 the protection of purchasers of instruments, documents, and  
6 securities; and section 554.9312, relating to priorities among  
7 conflicting security interests in the same collateral.

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## SENATE FILE 2368

S-5356

1 Amend Senate File 2368 as follows:

2 1. Page 1, by inserting before line 1, the  
3 following:

4 "Section 1. Section 511.8, subsection 21,  
5 paragraph a, subparagraph (1), Code 1995, is amended  
6 to read as follows:

7 (1) "Clearing corporation" means a corporation as  
8 defined in section 554.81027-~~subsection-3~~.

9 Sec. \_\_\_\_\_. Section 515.35, subsection 2, paragraphs  
10 b and c, Code 1995, are amended to read as follows:

11 b. "Clearing corporation" means as defined in  
12 section 554.81027-~~subsection-3~~.

13 c. "Custodian bank" means ~~as defined in section~~  
14 ~~554.81027-~~subsection-4~~~~ a bank or trust company that is  
15 supervised and examined by state or federal authority  
16 having supervision over banks and is acting as  
17 custodian for a clearing corporation.

18 Sec. \_\_\_\_\_. Section 518.14, subsection 2, paragraph  
19 c, Code Supplement 1995, is amended to read as  
20 follows:

21 c. "Custodian bank" means as defined in section  
22 ~~554.8102~~ 515.35.

23 Sec. \_\_\_\_\_. Section 518A.12, subsection 2, paragraph  
24 c, Code Supplement 1995, is amended to read as  
25 follows:

26 c. "Custodian bank" means as defined in section  
27 ~~554.8102~~ 515.35."

28 2. Page 2, by inserting after line 6 the  
29 following:

30 "Sec. \_\_\_\_\_. Section 554.5114, subsection 2,  
31 paragraph a, Code 1995, is amended to read as follows:

32 a. the issuer must honor the draft or demand for  
33 payment if honor is demanded by a negotiating bank or  
34 other holder of the draft or demand which has taken  
35 the draft or demand under the credit and under  
36 circumstances which would make it a holder in due  
37 course (section 554.3302) and in an appropriate case  
38 would make it a person to whom a document of title has  
39 been duly negotiated (section 554.7502) or a bona-fide  
40 purchaser of a certificated or uncertificated security  
41 who acquires rights in a security (section 554.8302);  
42 and".

43 3. Page 11, line 11, by striking the word "State"  
44 and inserting the following: "state".

45 4. Page 17, line 25, by striking the figure "4"  
46 and inserting the following: "4."

47 5. Page 20, line 3, by inserting before the word  
48 "security" the following: "a".

49 6. Page 20, line 9, by striking the words "its  
50 guaranty, whether or not".

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-1-

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Page 2

- 1 7. Page 22, line 21, by striking the word  
2 "director" and inserting the following: "directly".
- 3 8. Page 24, line 2, by striking the words "if the  
4 purchaser" and inserting the following: "purchaser".
- 5 9. Page 24, line 4, by striking the word "sent,"  
6 and inserting the following: "sent,".
- 7 10. Page 24, line 12, by striking the words  
8 "paragraph "a"" and inserting the following:  
9 "subsection 1".
- 10 11. Page 33, line 18, by striking the word "by".
- 11 12. Page 33, lines 26 and 27, by striking the  
12 figures "554.8402 554.8403" and inserting the  
13 following: "554.8402".
- 14 13. Page 34, line 29, by striking the word  
15 "endorsement" and inserting the following:  
16 "endorsement indorsement".
- 17 14. Page 34, line 32, by striking the word  
18 "endorsement" and inserting the following:  
19 "endorsement indorsement".
- 20 15. Page 34, line 33, by striking the word  
21 "fiduciary," and inserting the following:  
22 "fiduciary,".
- 23 16. Page 35, line 11, by striking the word  
24 "Guarantee" and inserting the following: "Guaranty".
- 25 17. Page 35, line 12, by striking the word  
26 "guarantee" and inserting the following: "guarantee  
27 guaranty".
- 28 18. Page 36, line 24, by striking the figure  
29 "(1)" and inserting the following: "(i)".
- 30 19. Page 36, line 26, by striking the figure  
31 "(2)" and inserting the following: "(ii)".
- 32 20. Page 37, line 3, by inserting after the  
33 letter "c," the following: "may".
- 34 21. Page 45, line 1, by inserting after the words  
35 "to the" the following: "entitlement holder for  
36 damages."
- 37 22. Page 50, by inserting after line 7 the  
38 following:  
39 "Control" Section 554.9115".
- 40 23. Page 53, line 35, by striking the letter and  
41 word "e. priority" and inserting the following: "5.  
42 Priority"
- 43 24. Page 54, line 2, by striking the figure "(1)"  
44 and inserting the following: "a."
- 45 25. Page 54, line 6, by striking the figure "(2)"  
46 and inserting the following: "b."
- 47 26. Page 54, line 9, by striking the figure "(3)"  
48 and inserting the following: "c."
- 49 27. Page 54, line 14, by striking the figure  
50 "(4)" and inserting the following: "d."

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Page 3

- 1 28. Page 54, line 19, by striking the figure
- 2 "(5)" and inserting the following: "e."
- 3 29. Page 54, line 22, by striking the figure
- 4 "(6)" and inserting the following: "f."
- 5 30. Page 54, line 26, by striking the letter and
- 6 word "f. if" and inserting the following: "6. If"
- 7 31. Page 55, line 30, by striking the word
- 8 "interest" and inserting the following: "interests".
- 9 32. Page 56, line 11, by striking the word "and"
- 10 and inserting the following: "and".
- 11 33. Page 57, line 16, by striking the word "a".
- 12 34. Page 60, by inserting after line 10 the
- 13 following:
- 14 "Sec. \_\_\_\_\_. Section 633.89, unnumbered paragraph 1,
- 15 Code 1995, is amended to read as follows:
- 16 A fiduciary as defined in section 633.3, ~~subsection~~
- 17 ~~17~~ holding securities, and a bank as defined in
- 18 section 524.103, ~~subsection-7~~, which is holding
- 19 securities as a managing agent or as a custodian,
- 20 including a custodian for a fiduciary, may deposit
- 21 securities in a clearing corporation, as defined in
- 22 section 554.8102, ~~subsection-3~~, which is located
- 23 within or without the state of Iowa, if the clearing
- 24 corporation is federally regulated. A depositing bank
- 25 is subject to rules adopted by the superintendent of
- 26 banking, with respect to state banks, and by the
- 27 comptroller of the currency, with respect to national
- 28 banking associations."
- 29 35. Page 60, by inserting after line 34 the
- 30 following:
- 31 "Sec. \_\_\_\_\_. Sections 633.130 through 633.138, Code
- 32 1995, are repealed.
- 33 Sec. \_\_\_\_\_. PREVAILING STATUTE. If 1996 Iowa Acts,
- 34 Senate File 2270, or 1996 Iowa Acts, House File 2402,
- 35 is enacted, either of those Acts prevails over the
- 36 amendments to section 554.5114 in this Act."
- 37 36. By renumbering as necessary.

By TOM FLYNN

S-5356 FILED MARCH 14, 1996

*a drafted*  
*3/27/96*  
 (P 1081)

Substituted for HF 2475  
4-10-96  
(P1528)

H.B. 2368

SENATE FILE 2368  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 2318)

(AS AMENDED AND PASSED BY THE SENATE MARCH 27, 1996)

- \_\_\_\_\_ - New Language by the Senate
- \* - Language Stricken by the Senate

Passed Senate, Date \_\_\_\_\_ Passed House, Date 4-10-96  
 (P. 1529)  
 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 95 Nays 0  
 Approved 4-18-96

**A BILL FOR**

1 An Act providing for the regulation of investment securities  
 2 under Article 8 of the Uniform Commercial Code, and providing  
 3 conforming changes, and an effective date.  
 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2368

1 Section 1. Section 511.8, subsection 21, paragraph a,  
2 subparagraph (1), Code 1995, is amended to read as follows:

3 (1) "Clearing corporation" means a corporation as defined  
4 in section 554.81027-subsection-3.

5 Sec. 2. Section 515.35, subsection 2, paragraphs b and c,  
6 Code 1995, are amended to read as follows:

7 b. "Clearing corporation" means as defined in section  
8 554.81027-subsection-3.

9 c. "Custodian bank" means as-defined-in-section-554-81027  
10 subsection-4 a bank or trust company that is supervised and  
11 examined by state or federal authority having supervision over  
12 banks and is acting as custodian for a clearing corporation.

13 Sec. 3. Section 518.14, subsection 2, paragraph c, Code  
14 Supplement 1995, is amended to read as follows:

15 c. "Custodian bank" means as defined in section 554-8102  
16 515.35.

17 Sec. 4. Section 518A.12, subsection 2, paragraph c, Code  
18 Supplement 1995, is amended to read as follows:

19 c. "Custodian bank" means as defined in section 554-8102  
20 515.35.

21 Sec. 5. Section 554.1105, subsection 2, Code 1995, is  
22 amended to read as follows:

23 2. Where one of the following provisions of this chapter  
24 specifies the applicable law, that provision governs and a  
25 contrary agreement is effective only to the extent permitted  
26 by the law (including the conflict of laws rules) so  
27 specified:

28 Rights of creditors against sold goods. Section 554.2402.

29 Applicability of the Article on Bank Deposits and  
30 Collections. Section 554.4102.

31 Applicability of the Article on Investment Securities.  
32 Section 554-8106 554.8110.

33 Perfection provisions of the Article on Secured  
34 Transactions. Section 554.9103.

35 Governing law in the Article on Funds Transfers. Section

1 554.12507.

2 Applicability of the Article on Leases. Sections 554.13105  
3 and 554.13106.

4 Sec. 6. Section 554.1206, subsection 2, Code 1995, is  
5 amended to read as follows:

6 2. Subsection 1 of this section does not apply to  
7 contracts for the sale of goods (section 554.2201) nor of  
8 securities (section ~~554.8319~~ 554.8113) nor to security  
9 agreements (section 554.9203).

10 Sec. 7. Section 554.4104, subsection 1, paragraph f, Code  
11 Supplement 1995, is amended to read as follows:

12 f. "Documentary draft" means a draft to be presented for  
13 acceptance or payment if specified documents, certificated  
14 securities (section 554.8102) or instructions for  
15 uncertificated securities (section ~~554.8308~~ 554.8102), or  
16 other certificates, statements, or the like are to be received  
17 by the drawee or other payor before acceptance or payment of  
18 the draft.

19 Sec. 8. Section 554.5114, subsection 2, unnumbered  
20 paragraph 1, Code 1995, is amended to read as follows:

21 Unless otherwise agreed when documents appear on their face  
22 to comply with the terms of a credit but a required document  
23 does not in fact conform to the warranties made on negotiation  
24 or transfer of a document of title (section 554.7507) or of a  
25 certificated security (section ~~554.8306~~ 554.8108) or is forged  
26 or fraudulent or there is fraud in the transaction:

27 Sec. 9. Section 554.5114, subsection 2, paragraph a, Code  
28 1995, is amended to read as follows:

29 a. the issuer must honor the draft or demand for payment  
30 if honor is demanded by a negotiating bank or other holder of  
31 the draft or demand which has taken the draft or demand under  
32 the credit and under circumstances which would make it a  
33 holder in due course (section 554.3302) and in an appropriate  
34 case would make it a person to whom a document of title has  
35 been duly negotiated (section 554.7502) or a bona-fide



1 purchaser of a certificated or uncertificated security who  
2 acquires rights in a security (section 554.8302); and

3 PART 1

4 SHORT TITLE AND GENERAL MATTERS

5 Sec. 10. Section 554.8102, Code 1995, is amended by  
6 striking the section and inserting in lieu thereof the  
7 following:

8 554.8102 DEFINITIONS AND INDEX OF DEFINITIONS.

9 1. In this Article:

10 a. "Adverse claim" means a claim that a claimant has a  
11 property interest in a financial asset and that it is a  
12 violation of the rights of the claimant for another person to  
13 hold, transfer, or deal with the financial asset.

14 b. "Bearer form", as applied to a certificated security,  
15 means a form in which the security is payable to the bearer of  
16 the security certificate according to its terms but not by  
17 reason of an indorsement.

18 c. "Broker" means a person defined as a broker or dealer  
19 under the federal securities laws, but without excluding a  
20 bank acting in that capacity.

21 d. "Certificated security" means a security that is  
22 represented by a certificate.

23 e. "Clearing corporation" means:

24 (1) a person that is registered as a "clearing agency"  
25 under the federal securities laws;

26 (2) a federal reserve bank; or

27 (3) any other person that provides clearance or settlement  
28 services with respect to financial assets that would require  
29 it to register as a clearing agency under the federal  
30 securities laws but for an exclusion or exemption from the  
31 registration requirement, if its activities as a clearing  
32 corporation, including promulgation of rules, are subject to  
33 regulation by a federal or state governmental authority.

34 f. "Communicate" means to:

35 (1) send a signed writing; or

1 (2) transmit information by any mechanism agreed upon by  
2 the persons transmitting and receiving the information.

3 g. "Entitlement holder" means a person identified in the  
4 records of a securities intermediary as the person having a  
5 security entitlement against the securities intermediary. If  
6 a person acquires a security entitlement by virtue of section  
7 554.8501, subsection 2, paragraph "b" or "c", that person is  
8 the entitlement holder.

9 h. "Entitlement order" means a notification communicated  
10 to a securities intermediary directing transfer or redemption  
11 of a financial asset to which the entitlement holder has a  
12 security entitlement.

13 i. "Financial asset", except as otherwise provided in  
14 section 554.8103, means:

15 (1) a security;

16 (2) an obligation of a person or a share, participation,  
17 or other interest in a person or in property or an enterprise  
18 of a person, which is, or is of a type, dealt in or traded on  
19 financial markets, or which is recognized in any area in which  
20 it is issued or dealt in as a medium for investment; or

21 (3) any property that is held by a securities intermediary  
22 for another person in a securities account if the securities  
23 intermediary has expressly agreed with the other person that  
24 the property is to be treated as a financial asset under this  
25 Article.

26 As context requires, the term means either the interest  
27 itself or the means by which a person's claim to it is  
28 evidenced, including a certificated or uncertificated  
29 security, a security certificate, or a security entitlement.

30 j. "Good faith", for purposes of the obligation of good  
31 faith in the performance or enforcement of contracts or duties  
32 within this Article, means honesty in fact and the observance  
33 of reasonable commercial standards of fair dealing.

34 k. "Indorsement" means a signature that alone or  
35 accompanied by other words is made on a security certificate

1 in registered form or on a separate document for the purpose  
2 of assigning, transferring, or redeeming the security or  
3 granting a power to assign, transfer, or redeem it.

4 1. "Instruction" means a notification communicated to the  
5 issuer of an uncertificated security which directs that the  
6 transfer of the security be registered or that the security be  
7 redeemed.

8 m. "Registered form", as applied to a certificated  
9 security, means a form in which:

10 (1) the security certificate specifies a person entitled  
11 to the security; and

12 (2) a transfer of the security may be registered upon  
13 books maintained for that purpose by or on behalf of the  
14 issuer, or the security certificate so states.

15 n. "Securities intermediary" means:

16 (1) a clearing corporation; or

17 (2) a person, including a bank or broker, that in the  
18 ordinary course of its business maintains securities accounts  
19 for others and is acting in that capacity.

20 o. "Security", except as otherwise provided in section  
21 554.8103, means an obligation of an issuer or a share,  
22 participation, or other interest in an issuer or in property  
23 or an enterprise of an issuer:

24 (1) which is represented by a security certificate in  
25 bearer or registered form, or the transfer of which may be  
26 registered upon books maintained for that purpose by or on  
27 behalf of the issuer;

28 (2) which is one of a class or series or by its terms is  
29 divisible into a class or series of shares, participations,  
30 interests, or obligations; and

31 (3) which:

32 (a) is, or is of a type, dealt in or traded on securities  
33 exchanges or securities markets; or

34 (b) is a medium for investment and by its terms expressly  
35 provides that it is a security governed by this Article.

1 p. "Security certificate" means a certificate representing  
2 a security.

3 q. "Security entitlement" means the rights and property  
4 interest of an entitlement holder with respect to a financial  
5 asset specified in Part 5.

6 r. "Uncertificated security" means a security that is not  
7 represented by a certificate.

8 2. Other definitions applying to this Article and the  
9 sections in which they appear are:

10	Appropriate person .....	Section 554.8107
11	Control .....	Section 554.8106
12	Delivery .....	Section 554.8301
13	Investment company	
14	security .....	Section 554.8103
15	Issuer .....	Section 554.8201
16	Overissue .....	Section 554.8210
17	Protected purchaser .....	Section 554.8303
18	Securities account .....	Section 554.8501

19 3. In addition, Article 1 contains general definitions and  
20 principles of construction and interpretation applicable  
21 throughout this Article.

22 4. The characterization of a person, business, or  
23 transaction for purposes of this Article does not determine  
24 the characterization of the person, business, or transaction  
25 for purposes of any other law, regulation, or rule.

26 Sec. 11. Section 554.8103, Code 1995, is amended by  
27 striking the section and inserting in lieu thereof the  
28 following:

29 554.8103 RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS  
30 AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS.

31 1. A share or similar equity interest issued by a  
32 corporation, business trust, joint stock company, or similar  
33 entity is a security.

34 2. An "investment company security" is a security.  
35 "Investment company security" means a share or similar equity

1 interest issued by an entity that is registered as an  
2 investment company under the federal investment company laws,  
3 an interest in a unit investment trust that is so registered,  
4 or a face-amount certificate issued by a face-amount  
5 certificate company that is so registered. Investment company  
6 security does not include an insurance policy or endowment  
7 policy or annuity contract issued by an insurance company.

8 3. An interest in a partnership or limited liability  
9 company is not a security unless it is dealt in or traded on  
10 securities exchanges or in securities markets, its terms  
11 expressly provide that it is a security governed by this  
12 Article, or it is an investment company security. However, an  
13 interest in a partnership or limited liability company is a  
14 financial asset if it is held in a securities account.

15 4. A writing that is a security certificate is governed by  
16 this Article and not by Article 3, even though it also meets  
17 the requirements of that Article. However, a negotiable  
18 instrument governed by Article 3 is a financial asset if it is  
19 held in a securities account.

20 5. An option or similar obligation issued by a clearing  
21 corporation to its participants is not a security, but is a  
22 financial asset.

23 6. A commodity contract, as defined in section 554.9115,  
24 is not a security or a financial asset.

25 Sec. 12. Section 554.8104, Code 1995, is amended by  
26 striking the section and inserting in lieu thereof the  
27 following:

28 554.8104 ACQUISITION OF SECURITY OR FINANCIAL ASSET OR  
29 INTEREST THEREIN.

30 1. A person acquires a security or an interest therein,  
31 under this Article, if:

32 a. the person is a purchaser to whom a security is  
33 delivered pursuant to section 554.8301; or

34 b. the person acquires a security entitlement to the  
35 security pursuant to section 554.8501.

1 2. A person acquires a financial asset, other than a  
2 security, or an interest therein, under this Article, if the  
3 person acquires a security entitlement to the financial asset.

4 3. A person who acquires a security entitlement to a  
5 security or other financial asset has the rights specified in  
6 Part 5, but is a purchaser of any security, security  
7 entitlement, or other financial asset held by the securities  
8 intermediary only to the extent provided in section 554.8503.

9 4. Unless the context shows that a different meaning is  
10 intended, a person who is required by other law, regulation,  
11 rule, or agreement to transfer, deliver, present, surrender,  
12 exchange, or otherwise put in the possession of another person  
13 a security or financial asset satisfies that requirement by  
14 causing the other person to acquire an interest in the  
15 security or financial asset pursuant to subsection 1 or 2.

16 Sec. 13. Section 554.8105, Code 1995, is amended by  
17 striking the section and inserting in lieu thereof the  
18 following:

19 554.8105 NOTICE OF ADVERSE CLAIM.

20 1. A person has notice of an adverse claim if:

21 a. the person knows of the adverse claim;

22 b. the person is aware of facts sufficient to indicate  
23 that there is a significant probability that the adverse claim  
24 exists and deliberately avoids information that would  
25 establish the existence of the adverse claim; or

26 c. the person has a duty, imposed by statute or  
27 regulation, to investigate whether an adverse claim exists,  
28 and the investigation so required would establish the  
29 existence of the adverse claim.

30 2. Having knowledge that a financial asset or interest  
31 therein is or has been transferred by a representative imposes  
32 no duty of inquiry into the rightfulness of a transaction and  
33 is not notice of an adverse claim. However, a person who  
34 knows that a representative has transferred a financial asset  
35 or interest therein in a transaction that is, or whose

1 proceeds are being used, for the individual benefit of the  
2 representative or otherwise in breach of duty has notice of an  
3 adverse claim.

4 3. An act or event that creates a right to immediate  
5 performance of the principal obligation represented by a  
6 security certificate or sets a date on or after which the  
7 certificate is to be presented or surrendered for redemption  
8 or exchange does not itself constitute notice of an adverse  
9 claim except in the case of a transfer more than:

10 a. one year after a date set for presentment or surrender  
11 for redemption or exchange; or

12 b. six months after a date set for payment of money  
13 against presentation or surrender of the certificate, if money  
14 was available for payment on that date.

15 4. A purchaser of a certificated security has notice of an  
16 adverse claim if the security certificate:

17 a. whether in bearer or registered form, has been indorsed  
18 "for collection" or "for surrender" or for some other purpose  
19 not involving transfer; or

20 b. is in bearer form and has on it an unambiguous  
21 statement that it is the property of a person other than the  
22 transferor, but the mere writing of a name on the certificate  
23 is not such a statement.

24 5. Filing of a financing statement under Article 9 is not  
25 notice of an adverse claim to a financial asset.

26 Sec. 14. Section 554.8106, Code 1995, is amended by  
27 striking the section and inserting in lieu thereof the  
28 following:

29 554.8106 CONTROL.

30 1. A purchaser has "control" of a certificated security in  
31 bearer form if the certificated security is delivered to the  
32 purchaser.

33 2. A purchaser has "control" of a certificated security in  
34 registered form if the certificated security is delivered to  
35 the purchaser, and:

1 a. the certificate is indorsed to the purchaser or in  
2 blank by an effective indorsement; or

3 b. the certificate is registered in the name of the  
4 purchaser, upon original issue or registration of transfer by  
5 the issuer.

6 3. A purchaser has "control" of an uncertificated security  
7 if:

8 a. the uncertificated security is delivered to the  
9 purchaser; or

10 b. the issuer has agreed that it will comply with  
11 instructions originated by the purchaser without further  
12 consent by the registered owner.

13 4. A purchaser has "control" of a security entitlement if:

14 a. the purchaser becomes the entitlement holder; or

15 b. the securities intermediary has agreed that it will  
16 comply with entitlement orders originated by the purchaser  
17 without further consent by the entitlement holder.

18 5. If an interest in a security entitlement is granted by  
19 the entitlement holder to the entitlement holder's own  
20 securities intermediary, the securities intermediary has  
21 control.

22 6. A purchaser who has satisfied the requirements of  
23 subsection 3, paragraph "b", or subsection 4, paragraph "b",  
24 has control even if the registered owner in the case of  
25 subsection 3, paragraph "b", or the entitlement holder in the  
26 case of subsection 4, paragraph "b", retains the right to make  
27 substitutions for the uncertificated security or security  
28 entitlement, to originate instructions or entitlement orders  
29 to the issuer or securities intermediary, or otherwise to deal  
30 with the uncertificated security or security entitlement.

31 7. An issuer or a securities intermediary may not enter  
32 into an agreement of the kind described in subsection 3,  
33 paragraph "b", or subsection 4, paragraph "b", without the  
34 consent of the registered owner or entitlement holder, but an  
35 issuer or a securities intermediary is not required to enter



1 into such an agreement even though the registered owner or  
2 entitlement holder so directs. An issuer or securities  
3 intermediary that has entered into such an agreement is not  
4 required to confirm the existence of the agreement to another  
5 party unless requested to do so by the registered owner or  
6 entitlement holder.

7 Sec. 15. Section 554.8107, Code 1995, is amended by  
8 striking the section and inserting in lieu thereof the  
9 following:

10 554.8107 WHETHER INDORSEMENT, INSTRUCTION, OR ENTITLEMENT  
11 ORDER IS EFFECTIVE.

12 1. "Appropriate person" means:

13 a. with respect to an indorsement, the person specified by  
14 a security certificate or by an effective special indorsement  
15 to be entitled to the security;

16 b. with respect to an instruction, the registered owner of  
17 an uncertificated security;

18 c. with respect to an entitlement order, the entitlement  
19 holder;

20 d. if the person designated in paragraph "a", "b", or "c"  
21 is deceased, the designated person's successor taking under  
22 other law or the designated person's personal representative  
23 acting for the estate of the decedent; or

24 e. if the person designated in paragraph "a", "b", or "c"  
25 lacks capacity, the designated person's guardian, conservator,  
26 or other similar representative who has power under other law  
27 to transfer the security or financial asset.

28 2. An indorsement, instruction, or entitlement order is  
29 effective if:

30 a. it is made by the appropriate person;

31 b. it is made by a person who has power under the law of  
32 agency to transfer the security or financial asset on behalf  
33 of the appropriate person, including, in the case of an  
34 instruction or entitlement order, a person who has control  
35 under section 554.8106, subsection 3, paragraph "b", or

1 subsection 4, paragraph "b"; or

2 c. the appropriate person has ratified it or is otherwise  
3 precluded from asserting its ineffectiveness.

4 3. An indorsement, instruction, or entitlement order made  
5 by a representative is effective even if:

6 a. the representative has failed to comply with a  
7 controlling instrument or with the law of the state having  
8 jurisdiction of the representative relationship, including any  
9 law requiring the representative to obtain court approval of  
10 the transaction; or

11 b. the representative's action in making the indorsement,  
12 instruction, or entitlement order or using the proceeds of the  
13 transaction is otherwise a breach of duty.

14 4. If a security is registered in the name of or specially  
15 indorsed to a person described as a representative, or if a  
16 securities account is maintained in the name of a person  
17 described as a representative, an indorsement, instruction, or  
18 entitlement order made by the person is effective even though  
19 the person is no longer serving in the described capacity.

20 5. Effectiveness of an indorsement, instruction, or  
21 entitlement order is determined as of the date the  
22 indorsement, instruction, or entitlement order is made, and an  
23 indorsement, instruction, or entitlement order does not become  
24 ineffective by reason of any later change of circumstances.

25 Sec. 16. Section 554.8108, Code 1995, is amended by  
26 striking the section and inserting in lieu thereof the  
27 following:

28 554.8108 WARRANTIES IN DIRECT HOLDING.

29 1. A person who transfers a certificated security to a  
30 purchaser for value warrants to the purchaser, and an  
31 indorser, if the transfer is by indorsement, warrants to any  
32 subsequent purchaser, that:

33 a. the certificate is genuine and has not been materially  
34 altered;

35 b. the transferor or indorser does not know of any fact

1 that might impair the validity of the security;

2 c. there is no adverse claim to the security;

3 d. the transfer does not violate any restriction on  
4 transfer;

5 e. if the transfer is by indorsement, the indorsement is  
6 made by an appropriate person, or if the indorsement is by an  
7 agent, the agent has actual authority to act on behalf of the  
8 appropriate person; and

9 f. the transfer is otherwise effective and rightful.

10 2. A person who originates an instruction for registration  
11 of transfer of an uncertificated security to a purchaser for  
12 value warrants to the purchaser that:

13 a. the instruction is made by an appropriate person, or if  
14 the instruction is by an agent, the agent has actual authority  
15 to act on behalf of the appropriate person;

16 b. the security is valid;

17 c. there is no adverse claim to the security; and

18 d. at the time the instruction is presented to the issuer:

19 (1) the purchaser will be entitled to the registration of  
20 transfer;

21 (2) the transfer will be registered by the issuer free  
22 from all liens, security interests, restrictions, and claims  
23 other than those specified in the instruction;

24 (3) the transfer will not violate any restriction on  
25 transfer; and

26 (4) the requested transfer will otherwise be effective and  
27 rightful.

28 3. A person who transfers an uncertificated security to a  
29 purchaser for value and does not originate an instruction in  
30 connection with the transfer warrants that:

31 a. the uncertificated security is valid;

32 b. there is no adverse claim to the security;

33 c. the transfer does not violate any restriction on  
34 transfer; and

35 d. the transfer is otherwise effective and rightful.

1 4. A person who indorses a security certificate warrants  
2 to the issuer that:

- 3 a. there is no adverse claim to the security; and
- 4 b. the indorsement is effective.

5 5. A person who originates an instruction for registration  
6 of transfer of an uncertificated security warrants to the  
7 issuer that:

- 8 a. the instruction is effective; and
- 9 b. at the time the instruction is presented to the issuer  
10 the purchaser will be entitled to the registration of  
11 transfer.

12 6. A person who presents a certificated security for  
13 registration of transfer or for payment or exchange warrants  
14 to the issuer that the person is entitled to the registration,  
15 payment, or exchange, but a purchaser for value and without  
16 notice of adverse claims to whom transfer is registered  
17 warrants only that the person has no knowledge of any  
18 unauthorized signature in a necessary indorsement.

19 7. If a person acts as agent of another in delivering a  
20 certificated security to a purchaser, the identity of the  
21 principal was known to the person to whom the certificate was  
22 delivered, and the certificate delivered by the agent was  
23 received by the agent from the principal or received by the  
24 agent from another person at the direction of the principal,  
25 the person delivering the security certificate warrants only  
26 that the delivering person has authority to act for the  
27 principal and does not know of any adverse claim to the  
28 certificated security.

29 8. A secured party who redelivers a security certificate  
30 received, or after payment and on order of the debtor delivers  
31 the security certificate to another person, makes only the  
32 warranties of an agent under subsection 7.

33 9. Except as otherwise provided in subsection 7, a broker  
34 acting for a customer makes to the issuer and a purchaser the  
35 warranties provided in subsections 1 through 6. A broker that

1 delivers a security certificate to its customer, or causes its  
2 customer to be registered as the owner of an uncertificated  
3 security, makes to the customer the warranties provided in  
4 subsection 1 or 2, and has the rights and privileges of a  
5 purchaser under this section. The warranties of and in favor  
6 of the broker acting as an agent are in addition to applicable  
7 warranties given by and in favor of the customer.

8 Sec. 17. NEW SECTION. 554.8109 WARRANTIES IN INDIRECT  
9 HOLDING.

10 1. A person who originates an entitlement order to a  
11 securities intermediary warrants to the securities  
12 intermediary that:

13 a. the entitlement order is made by an appropriate person,  
14 or if the entitlement order is by an agent, the agent has  
15 actual authority to act on behalf of the appropriate person;  
16 and

17 b. there is no adverse claim to the security entitlement.

18 2. A person who delivers a security certificate to a  
19 securities intermediary for credit to a securities account or  
20 originates an instruction with respect to an uncertificated  
21 security directing that the uncertificated security be  
22 credited to a securities account makes to the securities  
23 intermediary the warranties specified in section 554.8108,  
24 subsection 1 or 2.

25 3. If a securities intermediary delivers a security  
26 certificate to its entitlement holder or causes its  
27 entitlement holder to be registered as the owner of an  
28 uncertificated security, the securities intermediary makes to  
29 the entitlement holder the warranties specified in section  
30 554.8108, subsection 1 or 2.

31 Sec. 18. NEW SECTION. 554.8110 APPLICABILITY -- CHOICE  
32 OF LAW.

33 1. The local law of the issuer's jurisdiction, as  
34 specified in subsection 4, governs:

35 a. the validity of a security;

- 1 b. the rights and duties of the issuer with respect to  
2 registration of transfer;
- 3 c. the effectiveness of registration of transfer by the  
4 issuer;
- 5 d. whether the issuer owes any duties to an adverse  
6 claimant to a security; and
- 7 e. whether an adverse claim can be asserted against a  
8 person to whom transfer of a certificated or uncertificated  
9 security is registered or a person who obtains control of an  
10 uncertificated security.
- 11 2. The local law of the securities intermediary's  
12 jurisdiction, as specified in subsection 5, governs:
- 13 a. acquisition of a security entitlement from the  
14 securities intermediary;
- 15 b. the rights and duties of the securities intermediary  
16 and entitlement holder arising out of a security entitlement;
- 17 c. whether the securities intermediary owes any duties to  
18 an adverse claimant to a security entitlement; and
- 19 d. whether an adverse claim can be asserted against a  
20 person who acquires a security entitlement from the securities  
21 intermediary or a person who purchases a security entitlement  
22 or interest therein from an entitlement holder.
- 23 3. The local law of the jurisdiction in which a security  
24 certificate is located at the time of delivery governs whether  
25 an adverse claim can be asserted against a person to whom the  
26 security certificate is delivered.
- 27 4. "Issuer's jurisdiction" means the jurisdiction under  
28 which the issuer of the security is organized or, if permitted  
29 by the law of that jurisdiction, the law of another  
30 jurisdiction specified by the issuer. An issuer organized  
31 under the law of this state may specify the law of another  
32 jurisdiction as the law governing the matters specified in  
33 subsection 1, paragraphs "b" through "e".
- 34 5. The following rules determine a "securities  
35 intermediary's jurisdiction" for purposes of this section:

1 a. if an agreement between the securities intermediary and  
2 its entitlement holder specifies that it is governed by the  
3 law of a particular jurisdiction, that jurisdiction is the  
4 securities intermediary's jurisdiction.

5 b. if an agreement between the securities intermediary and  
6 its entitlement holder does not specify the governing law as  
7 provided in paragraph "a", but expressly specifies that the  
8 securities account is maintained at an office in a particular  
9 jurisdiction, that jurisdiction is the securities  
10 intermediary's jurisdiction.

11 c. if an agreement between the securities intermediary and  
12 its entitlement holder does not specify a jurisdiction as  
13 provided in paragraph "a" or "b", the securities  
14 intermediary's jurisdiction is the jurisdiction in which is  
15 located the office identified in an account statement as the  
16 office serving the entitlement holder's account.

17 d. if an agreement between the securities intermediary and  
18 its entitlement holder does not specify a jurisdiction as  
19 provided in paragraph "a" or "b" and an account statement does  
20 not identify an office serving the entitlement holder's  
21 account as provided in paragraph "c", the securities  
22 intermediary's jurisdiction is the jurisdiction in which is  
23 located the chief executive office of the securities  
24 intermediary.

25 6. A securities intermediary's jurisdiction is not  
26 determined by the physical location of certificates  
27 representing financial assets, or by the jurisdiction in which  
28 is organized the issuer of the financial asset with respect to  
29 which an entitlement holder has a security entitlement, or by  
30 the location of facilities for data processing or other record  
31 keeping concerning the account.

32 Sec. 19. NEW SECTION. 554.8111 CLEARING CORPORATION  
33 RULES.

34 A rule adopted by a clearing corporation governing rights  
35 and obligations among the clearing corporation and its

1 participants in the clearing corporation is effective even if  
2 the rule conflicts with this Article and affects another party  
3 who does not consent to the rule.

4 Sec. 20. NEW SECTION. 554.8112 CREDITOR'S LEGAL PROCESS.

5 1. The interest of a debtor in a certificated security may  
6 be reached by a creditor only by actual seizure of the  
7 security certificate by the officer making the attachment or  
8 levy, except as otherwise provided in subsection 4. However,  
9 a certificated security for which the certificate has been  
10 surrendered to the issuer may be reached by a creditor by  
11 legal process upon the issuer.

12 2. The interest of a debtor in an uncertificated security  
13 may be reached by a creditor only by legal process upon the  
14 issuer at its chief executive office in the United States,  
15 except as otherwise provided in subsection 4.

16 3. The interest of a debtor in a security entitlement may  
17 be reached by a creditor only by legal process upon the  
18 securities intermediary with whom the debtor's securities  
19 account is maintained, except as otherwise provided in  
20 subsection 4.

21 4. The interest of a debtor in a certificated security for  
22 which the certificate is in the possession of a secured party,  
23 or in an uncertificated security registered in the name of a  
24 secured party, or a security entitlement maintained in the  
25 name of a secured party, may be reached by a creditor by legal  
26 process upon the secured party.

27 5. A creditor whose debtor is the owner of a certificated  
28 security, uncertificated security, or security entitlement is  
29 entitled to aid from a court of competent jurisdiction, by  
30 injunction or otherwise, in reaching the certificated  
31 security, uncertificated security, or security entitlement or  
32 in satisfying the claim by means allowed at law or in equity  
33 in regard to property that cannot readily be reached by other  
34 legal process.

35 Sec. 21. NEW SECTION. 554.8113 STATUTE OF FRAUDS



1 INAPPLICABLE.

2 A contract or modification of a contract for the sale or  
3 purchase of a security is enforceable whether or not there is  
4 a writing signed or record authenticated by a party against  
5 whom enforcement is sought, even if the contract or  
6 modification is not capable of performance within one year of  
7 its making.

8 Sec. 22. NEW SECTION. 554.8114 EVIDENTIARY RULES  
9 CONCERNING CERTIFICATED SECURITIES.

10 The following rules apply in an action on a certificated  
11 security against the issuer:

12 1. Unless specifically denied in the pleadings, each  
13 signature on a security certificate or in a necessary  
14 indorsement is admitted.

15 2. If the effectiveness of a signature is put in issue,  
16 the burden of establishing effectiveness is on the party  
17 claiming under the signature, but the signature is presumed to  
18 be genuine or authorized.

19 3. If signatures on a security certificate are admitted or  
20 established, production of the certificate entitles a holder  
21 to recover on it unless the defendant establishes a defense or  
22 a defect going to the validity of the security.

23 4. If it is shown that a defense or defect exists, the  
24 plaintiff has the burden of establishing that the plaintiff or  
25 some person under whom the plaintiff claims is a person  
26 against whom the defense or defect cannot be asserted.

27 Sec. 23. NEW SECTION. 554.8115 SECURITIES INTERMEDIARY  
28 AND OTHERS NOT LIABLE TO ADVERSE CLAIMANT.

29 A securities intermediary that has transferred a financial  
30 asset pursuant to an effective entitlement order, or a broker  
31 or other agent or bailee that has dealt with a financial asset  
32 at the direction of its customer or principal, is not liable  
33 to a person having an adverse claim to the financial asset,  
34 unless the securities intermediary, or broker or other agent  
35 or bailee:

1 1. took the action after it had been served with an  
2 injunction, restraining order, or other legal process  
3 enjoining it from doing so, issued by a court of competent  
4 jurisdiction, and had a reasonable opportunity to act on the  
5 injunction, restraining order, or other legal process; or

6 2. acted in collusion with the wrongdoer in violating the  
7 rights of the adverse claimant; or

8 3. in the case of a security certificate that has been  
9 stolen, acted with notice of the adverse claim.

10 PART 2

11 ISSUE AND ISSUER

12 Sec. 24. Section 554.8201, Code 1995, is amended to read  
13 as follows:

14 554.8201 "ISSUER".

15 1. With respect to obligations an obligation on or  
16 defenses a defense to a security, an "issuer" includes a  
17 person who that:

18 a. places or authorizes the placing of that-person's its  
19 name on a certificated security totherwise certificate, other  
20 than as authenticating trustee, registrar, transfer agent, or  
21 the like, to evidence that-it-represents a share,  
22 participation, or other interest in that-person's its property  
23 or in an enterprise, or to evidence that-person's its duty to  
24 perform an obligation represented by the certificated-security  
25 certificate;

26 b. creates shares a share, participations participation or  
27 other interests interest in the-person's its property or in an  
28 enterprise, or undertakes obligations an obligation, which  
29 shares, participations, interests, or obligations are that is  
30 an uncertificated securities security;

31 c. directly or indirectly creates a fractional interests  
32 interest in that-person's its rights or property, which if the  
33 fractional interests are interest is represented by  
34 certificated-securities a security certificate; or

35 d. becomes responsible for, or in place of, any-other

1 another person described as an issuer in this section.

2 2. With respect to ~~obligations~~ an obligation on or  
3 ~~defenses~~ defense to a security, a guarantor is an issuer to  
4 the extent of ~~the-guarantor's-guaranty~~ its guaranty, whether  
\*5 or not ~~the-guarantor's~~ its obligation is noted on a  
6 ~~certificated security or on statements of uncertificated~~  
7 ~~securities sent pursuant to section 554.8408~~ certificate.

8 3. With respect to a registration of a transfer, pledge,  
9 ~~or release (Part 4 of this Article)~~, "issuer" issuer means a  
10 person on whose behalf transfer books are maintained.

11 Sec. 25. Section 554.8202, Code 1995, is amended to read  
12 as follows:

13 554.8202 ISSUER'S RESPONSIBILITY AND DEFENSES -- NOTICE OF  
14 DEFECT OR DEFENSE.

15 1. Even against a purchaser for value and without notice,  
16 the terms of a certificated security include:

17 a. ~~if the security is certificated, those stated on the~~  
18 ~~security;~~

19 b. ~~if the security is uncertificated, those contained in~~  
20 ~~the initial transaction statement sent to such purchaser, or~~  
21 ~~if the purchaser's interest is transferred to the purchaser~~  
22 ~~other than by registration of transfer, pledge, or release,~~  
23 ~~the initial transaction statement sent to the registered owner~~  
24 ~~or registered pledgee; and~~

25 c. ~~those made part of the security by reference, on the~~  
26 ~~certificated security or in the initial transaction statement,~~  
27 terms stated on the certificate and terms made part of the  
28 security by reference on the certificate to another

29 instrument, indenture, or document or to a constitution,  
30 statute, ordinance, rule, regulation, order, or the like, to  
31 the extent ~~that~~ the terms referred to do not conflict with the  
32 terms stated on the ~~certificated security or contained in the~~  
33 ~~initial statement~~ certificate. A reference under this

34 paragraph subsection does not of itself charge a purchaser for  
35 value with notice of a defect going to the validity of the

1 security, even though ~~the certificated security or statement~~  
2 if the certificate expressly states that a person accepting it  
3 admits notice. The terms of an uncertificated security,  
4 include those stated in any instrument, indenture, or document  
5 or in a constitution, statute, ordinance, rule, regulation,  
6 order, or the like pursuant to which the security is issued.

7 2. The following rules apply if an issuer asserts that a  
8 security is not valid:

9 a. A certificated security in the hands of a purchaser for  
10 value or an uncertificated security as to which an initial  
11 transaction statement has been sent to a purchaser for value,  
12 other than a security one issued by a government or  
13 governmental subdivision, agency, or unit instrumentality,  
14 even though issued with a defect going to its validity, is  
15 valid with respect to the in the hands of a purchaser if the  
16 purchaser is for value and without notice of the particular  
17 defect unless the defect involves a violation of a  
18 constitutional provisions, in which provision. In that case,  
19 the security is valid with respect to a subsequent in the  
20 hands of a purchaser for value and without notice of the  
21 defect, other than one who takes by original issue.

22 b. This subsection Paragraph "a" applies to an issuer that  
23 is a government or governmental subdivision, agency, or unit  
24 instrumentality only if either there has been substantial  
25 compliance with the legal requirements governing the issue or  
26 the issuer has received a substantial consideration for the  
27 issue as a whole or for the particular security and a stated  
28 purpose of the issue is one for which the issuer has power to  
29 borrow money or issue the security.

30 3. Except as otherwise provided in the case of certain  
31 unauthorized signatures (section 554.8205), lack of  
32 genuineness of a certificated security or an initial  
33 transaction statement is a complete defense, even against a  
34 purchaser for value and without notice.

35 4. All other defenses of the issuer of a certificated or

1 ~~uncertificated~~ security, including nondelivery and conditional  
2 delivery of a certificated security, are ineffective against a  
3 purchaser for value who has taken the certificated security  
4 without notice of the particular defense.

5 5. ~~Nothing-in-this~~ This section ~~shall-be-construed-to~~ does  
6 not affect the right of a party to cancel a contract for a  
7 security "when, as and if issued" or a "when distributed"  
8 ~~contract-to-cancel-the-contract~~ in the event of a material  
9 change in the character of the security that is the subject of  
10 the contract or in the plan or arrangement pursuant to which  
11 the security is to be issued or distributed.

12 6. If a security is held by a securities intermediary  
13 against whom an entitlement holder has a security entitlement  
14 with respect to the security, the issuer may not assert any  
15 defense that the issuer could not assert if the entitlement  
16 holder held the security directly.

17 Sec. 26. Section 554.8203, Code 1995, is amended to read  
18 as follows:

19 554.8203 STALENESS AS NOTICE OF DEFECTS DEFECT OR DEFENSES  
20 DEFENSE.

21 ~~4.~~ After an act or event, other than a call that has been  
22 revoked, creating a right to immediate performance of the  
23 principal obligation represented by a certificated security or  
24 ~~that-sets~~ setting a date on or after which the security is to  
25 be presented or surrendered for redemption or exchange, a  
26 purchaser is charged with notice of any defect in its issue or  
27 defense of the issuer, if the act or event:

28 a. ~~1. the-act-or-event-is-one-requiring~~ requires the  
29 payment of money, the delivery of a certificated securities  
30 security, the registration of transfer of an uncertificated  
31 ~~securities~~ security, or any of ~~these~~ them on presentation or  
32 surrender of the ~~certificated~~ security certificate, the ~~funds~~  
33 money or ~~securities-are~~ security is available on the date set  
34 for payment or exchange, and the purchaser takes the security  
35 more than one year after that date; ~~and~~ or

1     ~~b- 2.~~ the-act-or-event is not covered by paragraph-"a"  
2 subsection 1 and the purchaser takes the security more than  
3 two years after the date set for surrender or presentation or  
4 the date on which performance became due.

5     ~~2---A-call-that-has-been-revoked-is-not-within-subsection~~  
6 ~~1-~~

7     Sec. 27. Section 554.8204, Code 1995, is amended to read  
8 as follows:

9     554.8204 EFFECT OF ISSUER'S RESTRICTIONS RESTRICTION ON  
10 TRANSFER.

11     A restriction on transfer of a security imposed by the  
12 issuer, even though if otherwise lawful, is ineffective  
13 against any a person without actual knowledge of it the  
14 restriction unless:

15     ~~a- 1.~~ the security is certificated and the restriction is  
16 noted conspicuously thereon on the security certificate; or

17     ~~b- 2.~~ the security is uncertificated and ~~a-notation-of-the~~  
18 ~~restriction-is-contained-in-the-initial-transaction-statement~~  
19 ~~sent-to-the-person-or,-if-the-person's-interest-is-transferred~~  
20 ~~to-the-person-other-than-by-registration-of-transfer,-pledge,~~  
21 ~~or-release,-the-initial-transaction-statement-sent-to-the~~  
22 ~~registered-owner-or-the-registered-pledgee~~ the registered  
23 owner has been notified of the restriction.

24     Sec. 28. Section 554.8205, Code 1995, is amended to read  
25 as follows:

26     554.8205 EFFECT OF UNAUTHORIZED SIGNATURE ON CERTIFICATED  
27 SECURITY OR-INITIAL-TRANSACTION-STATEMENT CERTIFICATE.

28     An unauthorized signature placed on a certificated security  
29 prior-to certificate or in the course of issue ~~or-placed-on-an~~  
30 ~~initial-transaction-statement~~ is ineffective, but the  
31 signature is effective in favor of a purchaser for value of  
32 the certificated security or-a-purchaser-for-value-of-an  
33 uncertificated-security-to-whom-such-initial-transaction  
34 statement-has-been-sent, if the purchaser is without notice of  
35 the lack of authority and if the signing has been done by:

1 a- 1. an authenticating trustee, registrar, transfer agent  
2 or other person entrusted by the issuer with the signing of  
3 the security ~~of similar securities, or of initial transaction~~  
4 statements certificate or of similar security certificates, or  
5 the immediate preparation for signing of any of them; or

6 b- 2. an employee of the issuer, or of any of the  
7 ~~foregoing persons listed in subsection 1,~~ entrusted with  
8 responsible handling of the ~~security or initial transaction~~  
9 statement certificate.

10 Sec. 29. Section 554.8206, Code 1995, is amended to read  
11 as follows:

12 554.8206 COMPLETION OR ALTERATION OF CERTIFICATED SECURITY  
13 ~~OR INITIAL TRANSACTION STATEMENT~~ CERTIFICATE.

14 1. If a certificated security certificate contains the  
15 signatures necessary to its issue or transfer but is  
16 incomplete in any other respect:

17 a. any person may complete it by filling in the blanks as  
18 authorized; and

19 b. even though if the blanks are incorrectly filled in,  
20 the security certificate as completed is enforceable by a  
21 purchaser who took it for value and without notice of the  
22 incorrectness.

23 2. A complete certificated security certificate that has  
24 been improperly altered, even though if fraudulently, remains  
25 enforceable, but only according to its original terms.

26 ~~3.--If an initial transaction statement contains the~~  
27 ~~signatures necessary to its validity, but is incomplete in any~~  
28 ~~other respect:~~

29 ~~a.--any person may complete it by filling in the blanks as~~  
30 ~~authorized; and~~

31 ~~b.--even though the blanks are incorrectly filled in, the~~  
32 ~~statement as completed is effective in favor of the person to~~  
33 ~~whom it is sent if the person purchased the security referred~~  
34 ~~to therein for value and without notice of the incorrectness.~~

35 ~~4.--A complete initial transaction statement that has been~~

1 ~~improperly altered, even though fraudulently, is effective in~~  
2 ~~favor of a purchaser to whom it has been sent, but only~~  
3 ~~according to its original terms.~~

4 Sec. 30. Section 554.8207, Code 1995, is amended to read  
5 as follows:

6 554.8207 RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO  
7 REGISTERED OWNERS.

8 1. ~~Prior to~~ Before due presentment for registration of  
9 transfer of a certificated security in registered form, or of  
10 an instruction requesting registration of transfer of an  
11 uncertificated security, the issuer or indenture trustee may  
12 treat the registered owner as the person exclusively entitled  
13 to vote, to receive notifications, and otherwise to exercise  
14 all the rights and powers of an owner.

15 ~~2. Subject to the provisions of subsections 3, 4, and 6,~~  
16 ~~the issuer or indenture trustee may treat the registered owner~~  
17 ~~of an uncertificated security as the person exclusively~~  
18 ~~entitled to vote, to receive notifications, and otherwise to~~  
19 ~~exercise all the rights and powers of an owner.~~

20 3. 2. The This Article does not affect the liability of  
21 the registered owner of an uncertificated a security that is  
22 subject to a registered pledge is not entitled to registration  
23 of transfer prior to the due presentment to the issuer of a  
24 release instruction for a call, assessment, or the like. The  
25 exercise of conversion rights with respect to a convertible  
26 uncertificated security is a transfer within the meaning of  
27 this section.

28 4. ~~Upon due presentment of a transfer instruction from the~~  
29 ~~registered pledgee of an uncertificated security, the issuer~~  
30 ~~shall:~~

31 a. ~~register the transfer of the security to the new owner~~  
32 ~~free of pledge, if the instruction specifies a new owner (who~~  
33 ~~may be the registered pledgee) and does not specify a pledgee;~~

34 b. ~~register the transfer of the security to the new owner~~  
35 ~~subject to the interest of the existing pledgee, if the~~



1 instruction specifies a new owner and the existing pledgee, or  
2 c.---register the release of the security from the existing  
3 pledge and register the pledge of the security to the other  
4 pledgee, if the instruction specifies the existing owner and  
5 another pledgee.

6 5.---Continuity of perfection of a security interest is not  
7 broken by registration of transfer under subsection (4)(b) or  
8 by registration of release and pledge under subsection (4)(c),  
9 if the security interest is assigned.

10 6.---If an uncertificated security is subject to a  
11 registered pledge:

12 a.---any uncertificated securities issued in exchange for or  
13 distributed with respect to the pledged security shall be  
14 registered subject to the pledge;

15 b.---any certificated securities issued in exchange for or  
16 distributed with respect to the pledged security shall be  
17 delivered to the registered pledgee; and

18 c.---any money paid in exchange for or in redemption of part  
19 or all of the security shall be paid to the registered  
20 pledgee.

21 7.---Nothing in this Article shall be construed to affect  
22 the liability of the registered owner of a security for calls,  
23 assessments, or the like.

24 Sec. 31. Section 554.8208, Code 1995, is amended to read  
25 as follows:

26 554.8208 EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE,  
27 REGISTRAR, OR TRANSFER AGENT.

28 1. A person placing that person's signature upon signing a  
29 certificated security or an initial transaction statement  
30 certificate, as authenticating trustee, registrar, transfer  
31 agent, or the like, warrants to a purchaser for value of the  
32 certificated security, or a purchaser for value of an  
33 uncertificated security to whom the initial transaction  
34 statement has been sent, if the purchaser is without notice of  
35 the particular defect, that:

1 a. ~~the certificated-security-or-initial-transaction~~  
2 ~~statement certificate~~ is genuine;

3 b. ~~that the~~ person's own participation in the issue or  
4 ~~registration-of-transfer,pledge,or-release~~ of the security  
5 is within ~~that the~~ person's capacity and within the scope of  
6 the authority received by ~~that the~~ person from the issuer; and

7 c. ~~that the~~ person has reasonable grounds to believe that  
8 the certificated security is in the form and within the amount  
9 the issuer is authorized to issue.

10 2. Unless otherwise agreed, a person ~~by-so-placing-that~~  
11 ~~person's-signature~~ signing under subsection 1 does not assume  
12 responsibility for the validity of the security in other  
13 respects.

14 Sec. 32. NEW SECTION. 554.8209 ISSUER'S LIEN.

15 A lien in favor of an issuer upon a certificated security  
16 is valid against a purchaser only if the right of the issuer  
17 to the lien is noted conspicuously on the security  
18 certificate.

19 Sec. 33. NEW SECTION. 554.8210 OVERISSUE.

20 1. In this section, "overissue" means the issue of  
21 securities in excess of the amount the issuer has corporate  
22 power to issue, but an overissue does not occur if appropriate  
23 action has cured the overissue.

24 2. Except as otherwise provided in subsections 3 and 4,  
25 the provisions of this Article which validate a security or  
26 compel its issue or reissue do not apply to the extent that  
27 validation, issue, or reissue would result in overissue.

28 3. If an identical security not constituting an overissue  
29 is reasonably available for purchase, a person entitled to  
30 issue or validation may compel the issuer to purchase the  
31 security and deliver it if certificated or register its  
32 transfer if uncertificated, against surrender of any security  
33 certificate the person holds.

34 4. If a security is not reasonably available for purchase,  
35 a person entitled to issue or validation may recover from the

1 issuer the price the person or the last purchaser for value  
2 paid for it with interest from the date of the person's  
3 demand.

4 PART 3

5 TRANSFER OF CERTIFICATED  
6 AND UNCERTIFICATED SECURITIES

7 Sec. 34. Section 554.8301, Code 1995, is amended by  
8 striking the section and inserting in lieu thereof the  
9 following:

10 554.8301 DELIVERY.

11 1. Delivery of a certificated security to a purchaser  
12 occurs when:

13 a. the purchaser acquires possession of the security  
14 certificate;

15 b. another person, other than a securities intermediary,  
16 either acquires possession of the security certificate on  
17 behalf of the purchaser or, having previously acquired  
18 possession of the certificate, acknowledges that it holds for  
19 the purchaser; or

20 c. a securities intermediary acting on behalf of the  
21 purchaser acquires possession of the security certificate,  
22 only if the certificate is in registered form and has been  
23 specially indorsed to the purchaser by an effective  
24 indorsement.

25 2. Delivery of an uncertificated security to a purchaser  
26 occurs when:

27 a. the issuer registers the purchaser as the registered  
28 owner, upon original issue or registration of transfer; or

29 b. another person, other than a securities intermediary,  
30 either becomes the registered owner of the uncertificated  
31 security on behalf of the purchaser or, having previously  
32 become the registered owner, acknowledges that it holds for  
33 the purchaser.

34 Sec. 35. Section 554.8302, Code 1995, is amended by  
35 striking the section and inserting in lieu thereof the

1 following:

2 554.8302 RIGHTS OF PURCHASER.

3 1. Except as otherwise provided in subsections 2 and 3,  
4 upon delivery of a certificated or uncertificated security to  
5 a purchaser, the purchaser acquires all rights in the security  
6 that the transferor had or had power to transfer.

7 2. A purchaser of a limited interest acquires rights only  
8 to the extent of the interest purchased.

9 3. A purchaser of a certificated security who as a  
10 previous holder had notice of an adverse claim does not  
11 improve its position by taking from a protected purchaser.

12 Sec. 36. Section 554.8303, Code 1995, is amended by  
13 striking the section and inserting in lieu thereof the  
14 following:

15 554.8303 PROTECTED PURCHASER.

16 1. "Protected purchaser" means a purchaser of a  
17 certificated or uncertificated security, or of an interest  
18 therein, who:

19 a. gives value;

20 b. does not have notice of any adverse claim to the  
21 security; and

22 c. obtains control of the certificated or uncertificated  
23 security.

24 2. In addition to acquiring the rights of a purchaser, a  
25 protected purchaser also acquires its interest in the security  
26 free of any adverse claim.

27 Sec. 37. Section 554.8304, Code 1995, is amended by  
28 striking the section and inserting in lieu thereof the  
29 following:

30 554.8304 INDORSEMENT.

31 1. An indorsement may be in blank or special. An  
32 indorsement in blank includes an indorsement to bearer. A  
33 special indorsement specifies to whom a security is to be  
34 transferred or who has power to transfer it. A holder may  
35 convert a blank indorsement to a special indorsement.

1 2. An indorsement purporting to be only of part of a  
2 security certificate representing units intended by the issuer  
3 to be separately transferable is effective to the extent of  
4 the indorsement.

5 3. An indorsement, whether special or in blank, does not  
6 constitute a transfer until delivery of the certificate on  
7 which it appears or, if the indorsement is on a separate  
8 document, until delivery of both the document and the  
9 certificate.

10 4. If a security certificate in registered form has been  
11 delivered to a purchaser without a necessary indorsement, the  
12 purchaser may become a protected purchaser only when the  
13 indorsement is supplied. However, against a transferor, a  
14 transfer is complete upon delivery and the purchaser has a  
15 specifically enforceable right to have any necessary  
16 indorsement supplied.

17 5. An indorsement of a security certificate in bearer form  
18 may give notice of an adverse claim to the certificate, but it  
19 does not otherwise affect a right to registration that the  
20 holder possesses.

21 6. Unless otherwise agreed, a person making an indorsement  
22 assumes only the obligations provided in section 554.8108 and  
23 not an obligation that the security will be honored by the  
24 issuer.

25 Sec. 38. Section 554.8305, Code 1995, is amended by  
26 striking the section and inserting in lieu thereof the  
27 following:

28 554.8305 INSTRUCTION.

29 1. If an instruction has been originated by an appropriate  
30 person but is incomplete in any other respect, any person may  
31 complete it as authorized and the issuer may rely on it as  
32 completed, even though it has been completed incorrectly.

33 2. Unless otherwise agreed, a person initiating an  
34 instruction assumes only the obligations imposed by section  
35 554.8108 and not an obligation that the security will be

1 honored by the issuer.

2 Sec. 39. Section 554.8306, Code 1995, is amended by  
3 striking the section and inserting in lieu thereof the  
4 following:

5 554.8306 EFFECT OF GUARANTEEING SIGNATURE, INDORSEMENT, OR  
6 INSTRUCTION.

7 1. A person who guarantees a signature of an indorser of a  
8 security certificate warrants that at the time of signing:

9 a. the signature was genuine;

10 b. the signer was an appropriate person to indorse, or if  
11 the signature is by an agent, the agent had actual authority  
12 to act on behalf of the appropriate person; and

13 c. the signer had legal capacity to sign.

14 2. A person who guarantees a signature of the originator  
15 of an instruction warrants that at the time of signing:

16 a. the signature was genuine;

17 b. the signer was an appropriate person to originate the  
18 instruction, or if the signature is by an agent, the agent had  
19 actual authority to act on behalf of the appropriate person,  
20 if the person specified in the instruction as the registered  
21 owner was, in fact, the registered owner, as to which fact the  
22 signature guarantor does not make a warranty; and

23 c. the signer had legal capacity to sign.

24 3. A person who specially guarantees the signature of an  
25 originator of an instruction makes the warranties of a  
26 signature guarantor under subsection 2 and also warrants that  
27 at the time the instruction is presented to the issuer:

28 a. the person specified in the instruction as the  
29 registered owner of the uncertificated security will be the  
30 registered owner; and

31 b. the transfer of the uncertificated security requested  
32 in the instruction will be registered by the issuer free from  
33 all liens, security interests, restrictions, and claims other  
34 than those specified in the instruction.

35 4. A guarantor under subsections 1 and 2 or a special

1 guarantor under subsection 3 does not otherwise warrant the  
2 rightfulness of the transfer.

3 5. A person who guarantees an indorsement of a security  
4 certificate makes the warranties of a signature guarantor  
5 under subsection 1 and also warrants the rightfulness of the  
6 transfer in all respects.

7 6. A person who guarantees an instruction requesting the  
8 transfer of an uncertificated security makes the warranties of  
9 a special signature guarantor under subsection 3 and also  
10 warrants the rightfulness of the transfer in all respects.

11 7. An issuer may not require a special guaranty of  
12 signature, a guaranty of indorsement, or a guaranty of  
13 instruction as a condition to registration of transfer.

14 8. The warranties under this section are made to a person  
15 taking or dealing with the security in reliance on the  
16 guaranty, and the guarantor is liable to the person for loss  
17 resulting from their breach. An indorser or originator of an  
18 instruction whose signature, indorsement, or instruction has  
19 been guaranteed is liable to a guarantor for any loss suffered  
20 by the guarantor as a result of breach of the warranties of  
21 the guarantor.

22 Sec. 40. Section 554.8307, Code 1995, is amended by  
23 striking the section and inserting in lieu thereof the  
24 following:

25 554.8307 PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION  
26 OF TRANSFER.

27 Unless otherwise agreed, the transferor of a security on  
28 due demand shall supply the purchaser with proof of authority  
29 to transfer or with any other requisite necessary to obtain  
30 registration of the transfer of the security, but if the  
31 transfer is not for value, a transferor need not comply unless  
32 the purchaser pays the necessary expenses. If the transferor  
33 fails within a reasonable time to comply with the demand, the  
34 purchaser may reject or rescind the transfer.

35 PART 4

## 1 REGISTRATION

2 Sec. 41. Section 554.8401, Code 1995, is amended to read  
3 as follows:

4 554.8401 DUTY OF ISSUER TO REGISTER TRANSFER~~7-PLEDGE7-OR~~  
5 RELEASE.

6 1. If a certificated security in registered form is  
7 presented to the an issuer with a request to register transfer  
8 or an instruction is presented to the an issuer with a request  
9 to register transfer, ~~pledge7-or-release~~ the issuer shall  
10 register the transfer~~7-pledge7-or-release~~ as requested if:

11 a. ~~the security is endorsed or the instruction was~~  
12 ~~originated by the appropriate person or persons (section~~  
\*13 ~~554.8308)~~ under the terms of the security the person seeking  
14 registration of transfer is eligible to have the security  
15 registered in its name;

16 b. the indorsement or instruction is made by the  
17 appropriate person or by an agent who has actual authority to  
18 act on behalf of the appropriate person;

19 ~~c.~~ c. reasonable assurance is given that those  
20 endorsements the indorsement or instructions are instruction  
21 is genuine and effective authorized (section 554.8402);

22 ~~c.--the issuer has no duty as to adverse claims or has~~  
23 ~~discharged the duty (section 554.8403);~~

24 d. any applicable law relating to the collection of taxes  
25 has been complied with; and

26 e. ~~the transfer7-pledge7-or-release is in fact rightful or~~  
27 ~~is to a bona fide purchaser~~ does not violate any restriction  
28 on transfer imposed by the issuer in accordance with section  
29 554.8204.

30 f. a demand that the issuer not register transfer has not  
31 become effective under section 554.8403, or the issuer has  
32 complied with section 554.8403, subsection 2, but no legal  
33 process or indemnity bond is obtained as provided in section  
34 554.8403, subsection 4; and

35 g. the transfer is in fact rightful or is to a protected



1 purchaser.

2 2. If an issuer is under a duty to register a transfer,  
3 ~~pledge, or release~~ of a security, the issuer is ~~also~~ liable to  
4 ~~the~~ a person presenting a certificated security or an  
5 instruction for registration or ~~that~~ to the person's principal  
6 for loss resulting from ~~any~~ unreasonable delay in registration  
7 or ~~from~~ failure or refusal to register the transfer, ~~pledge,~~  
8 ~~or release.~~

9 Sec. 42. Section 554.8402, Code 1995, is amended to read  
10 as follows:

11 554.8402 ASSURANCE THAT ~~ENDORSEMENTS-AND-INSTRUCTIONS-ARE~~  
12 INDORSEMENT OR INSTRUCTION IS EFFECTIVE.

13 1. ~~The~~ An issuer may require the following assurance that  
14 each necessary ~~endorsement-of-a-certificated-security~~  
15 indorsement or each instruction (~~section-554-8308~~) is genuine  
16 and effective authorized:

17 a. in all cases, a guarantee of the signature (~~section~~  
18 ~~554-8312, subsection 1 or 2~~) of the person ~~endorsing-a~~  
19 certificated-security making an indorsement or originating an  
20 instruction including, in the case of an instruction, a  
21 ~~warranty-of-the-taxpayer-identification-number-or, in the~~  
22 ~~absence thereof, other~~ reasonable assurance of identity;

23 b. if the endorsement indorsement is made or the  
24 instruction is originated by an agent, appropriate assurance  
25 of actual authority to sign;

26 c. if the endorsement indorsement is made or the  
27 instruction is originated by a fiduciary, pursuant to section  
28 554.8107, subsection 1, paragraph "d" or subsection 1,  
29 paragraph "e", appropriate evidence of appointment or  
30 incumbency;

31 d. if there is more than one fiduciary, reasonable  
32 assurance that all who are required to sign have done so; and

33 e. if the endorsement indorsement is made or the  
34 instruction is originated by a person not covered by ~~any-of~~  
35 the foregoing another provision of this subsection, assurance

1 appropriate to the case corresponding as nearly as may be to  
2 the foregoing provisions of this subsection.

3 2. An issuer may elect to require reasonable assurance  
4 beyond that specified in this section.

5 3. In this section:

6 2- a. A-"guarantee "Guaranty of the signature" in  
7 subsection-1 means a guarantee guaranty signed by or on behalf  
8 of a person reasonably believed by the issuer to be  
9 responsible. The An issuer may adopt standards with respect  
10 to responsibility if they are not manifestly unreasonable.

11 3- b. "Appropriate evidence of appointment or incumbency"  
12 in-subsection-1 means

13 a- (1) in the case of a fiduciary appointed or qualified  
14 by a court, a certificate issued by or under the direction or  
15 supervision of that the court or an officer of-that-court  
16 thereof and dated within one-hundred-eighty sixty days before  
17 the date of presentation for transfer, pledge, or release; or

18 b- (2) in any other case, a copy of a document showing the  
19 appointment or a certificate issued by or on behalf of a  
20 person reasonably believed by the an issuer to be responsible  
21 or, in the absence of that document or certificate, other  
22 evidence the issuer reasonably deemed-by-the-issuer-to-be  
23 considers appropriate. The-issuer-may-adopt-standards-with  
24 respect-to-the-evidence-if-they-are-not-manifestly  
25 unreasonable.--The-issuer-is-not-charged-with-notice-of-the  
26 contents-of-any-document-obtained-pursuant-to-this-paragraph  
27 "b"-except-to-the-extent-that-the-contents-relate-directly-to  
28 the-appointment-or-incumbency.

29 4.--The-issuer-may-elect-to-require-reasonable-assurance  
30 beyond-that-specified-in-this-section, but-if-it-does-so-and,  
31 for-a-purpose-other-than-that-specified-in-subsection-3-"b",  
32 both-requires-and-obtains-a-copy-of-a-will, trust, indenture,  
33 articles-of-copartnership, bylaws, or-other-controlling  
34 instrument, it-is-charged-with-notice-of-all-matters-contained  
35 therein-affecting-the-transfer, pledge, or-release.

1 Sec. 43. Section 554.8403, Code 1995, is amended by  
2 striking the section and inserting in lieu thereof the  
3 following:

4 554.8403 DEMAND THAT ISSUER NOT REGISTER TRANSFER.

5 1. A person who is an appropriate person to make an  
6 indorsement or originate an instruction may demand that the  
7 issuer not register transfer of a security by communicating to  
8 the issuer a notification that identifies the registered owner  
9 and the issue of which the security is a part and provides an  
10 address for communications directed to the person making the  
11 demand. The demand is effective only if it is received by the  
12 issuer at a time and in a manner affording the issuer  
13 reasonable opportunity to act on it.

14 2. If a certificated security in registered form is  
15 presented to an issuer with a request to register transfer or  
16 an instruction is presented to an issuer with a request to  
17 register transfer of an uncertificated security after a demand  
18 that the issuer not register transfer has become effective,  
19 the issuer shall promptly communicate to (i) the person who  
20 initiated the demand at the address provided in the demand,  
21 and (ii) the person who presented the security for  
22 registration of transfer or initiated the instruction  
23 requesting registration of transfer a notification stating  
24 that:

25 a. the certificated security has been presented for  
26 registration of transfer or the instruction for registration  
27 of transfer of the uncertificated security has been received;

28 b. a demand that the issuer not register transfer had  
29 previously been received; and

30 c. the issuer will withhold registration of transfer for a  
31 period of time stated in the notification in order to provide  
32 the person who initiated the demand an opportunity to obtain  
33 legal process or an indemnity bond.

34 3. The period described in subsection 2, paragraph "c",  
35 may not exceed thirty days after the date of communication of

1 the notification. A shorter period may be specified by the  
2 issuer if it is not manifestly unreasonable.

3 4. An issuer is not liable to a person who initiated a  
4 demand that the issuer not register transfer for any loss the  
5 person suffers as a result of registration of a transfer  
6 pursuant to an effective indorsement or instruction if the  
7 person who initiated the demand does not, within the time  
8 stated in the issuer's communication, either:

9 a. obtain an appropriate restraining order, injunction, or  
10 other process from a court of competent jurisdiction enjoining  
11 the issuer from registering the transfer; or

12 b. file with the issuer an indemnity bond, sufficient in  
13 the issuer's judgment to protect the issuer and any transfer  
14 agent, registrar, or other agent of the issuer involved from  
15 any loss it or they may suffer by refusing to register the  
16 transfer.

17 5. This section does not relieve an issuer from liability  
18 for registering transfer pursuant to an indorsement or  
19 instruction that was not effective.

20 Sec. 44. Section 554.8404, Code 1995, is amended by  
21 striking the section and inserting in lieu thereof the  
22 following:

23 554.8404 WRONGFUL REGISTRATION.

24 1. Except as otherwise provided in section 554.8406, an  
25 issuer is liable for wrongful registration of transfer if the  
26 issuer has registered a transfer of a security to a person not  
27 entitled to it, and the transfer was registered:

28 a. pursuant to an ineffective indorsement or instruction;

29 b. after a demand that the issuer not register transfer  
30 became effective under section 554.8403, subsection 1, and the  
31 issuer did not comply with section 554.8403, subsection 2;

32 c. after the issuer had been served with an injunction,  
33 restraining order, or other legal process enjoining it from  
34 registering the transfer, issued by a court of competent  
35 jurisdiction, and the issuer had a reasonable opportunity to

1 act on the injunction, restraining order, or other legal  
2 process; or

3 d. by an issuer acting in collusion with the wrongdoer.

4 2. An issuer that is liable for wrongful registration of  
5 transfer under subsection 1 on demand shall provide the person  
6 entitled to the security with a like certificated or  
7 uncertificated security, and any payments or distributions  
8 that the person did not receive as a result of the wrongful  
9 registration. If an overissue would result, the issuer's  
10 liability to provide the person with a like security is  
11 governed by section 554.8210.

12 3. Except as otherwise provided in subsection 1 or in a  
13 law relating to the collection of taxes, an issuer is not  
14 liable to an owner or other person suffering loss as a result  
15 of the registration of a transfer of a security if  
16 registration was made pursuant to an effective indorsement or  
17 instruction.

18 Sec. 45. Section 554.8405, Code 1995, is amended by  
19 striking the section and inserting in lieu thereof the  
20 following:

21 554.8405 REPLACEMENT OF LOST, DESTROYED, OR WRONGFULLY  
22 TAKEN SECURITY CERTIFICATE.

23 1. If an owner of a certificated security, whether in  
24 registered or bearer form, claims that the certificate has  
25 been lost, destroyed, or wrongfully taken, the issuer shall  
26 issue a new certificate if the owner:

27 a. so requests before the issuer has notice that the  
28 certificate has been acquired by a protected purchaser;

29 b. files with the issuer a sufficient indemnity bond; and

30 c. satisfies other reasonable requirements imposed by the  
31 issuer.

32 2. If, after the issue of a new security certificate, a  
33 protected purchaser of the original certificate presents it  
34 for registration of transfer, the issuer shall register the  
35 transfer unless an overissue would result. In that case, the

1 issuer's liability is governed by section 554.8210. In  
2 addition to any rights on the indemnity bond, an issuer may  
3 recover the new certificate from a person to whom it was  
4 issued or any person taking under that person, except a  
5 protected purchaser.

6 Sec. 46. Section 554.8406, Code 1995, is amended by  
7 striking the section and inserting in lieu thereof the  
8 following:

9 554.8406 OBLIGATION TO NOTIFY ISSUER OF LOST, DESTROYED,  
10 OR WRONGFULLY TAKEN SECURITY CERTIFICATE.

11 If a security certificate has been lost, apparently  
12 destroyed, or wrongfully taken, and the owner fails to notify  
13 the issuer of that fact within a reasonable time after the  
14 owner has notice of it and the issuer registers a transfer of  
15 the security before receiving notification, the owner may not  
16 assert against the issuer a claim for registering the transfer  
17 under section 554.8404 or a claim to a new security  
18 certificate under section 554.8405.

19 Sec. 47. Section 554.8407, Code 1995, is amended by  
20 striking the section and inserting in lieu thereof the  
21 following:

22 554.8407 AUTHENTICATING TRUSTEE, TRANSFER AGENT, AND  
23 REGISTRAR.

24 A person acting as authenticating trustee, transfer agent,  
25 registrar, or other agent for an issuer in the registration of  
26 a transfer of its securities, in the issue of new security  
27 certificates or uncertificated securities, or in the  
28 cancellation of surrendered security certificates has the same  
29 obligation to the holder or owner of a certificated or  
30 uncertificated security with regard to the particular  
31 functions performed as the issuer has in regard to those  
32 functions.

33

PART 5

34

SECURITY ENTITLEMENTS

35 Sec. 48. NEW SECTION. 554.8501 SECURITIES ACCOUNT --

1 ACQUISITION OF SECURITY ENTITLEMENT FROM SECURITIES

2 INTERMEDIARY.

3 1. "Securities account" means an account to which a  
4 financial asset is or may be credited in accordance with an  
5 agreement under which the person maintaining the account  
6 undertakes to treat the person for whom the account is  
7 maintained as entitled to exercise the rights that comprise  
8 the financial asset.

9 2. Except as otherwise provided in subsections 4 and 5, a  
10 person acquires a security entitlement if a securities  
11 intermediary:

12 a. indicates by book entry that a financial asset has been  
13 credited to the person's securities account;

14 b. receives a financial asset from the person or acquires  
15 a financial asset for the person and, in either case, accepts  
16 it for credit to the person's securities account; or

17 c. becomes obligated under other law, regulation, or rule  
18 to credit a financial asset to the person's securities  
19 account.

20 3. If a condition of subsection 2 has been met, a person  
21 has a security entitlement even though the securities  
22 intermediary does not itself hold the financial asset.

23 4. If a securities intermediary holds a financial asset  
24 for another person, and the financial asset is registered in  
25 the name of, payable to the order of, or specially indorsed to  
26 the other person, and has not been indorsed to the securities  
27 intermediary or in blank, the other person is treated as  
28 holding the financial asset directly rather than as having a  
29 security entitlement with respect to the financial asset.

30 5. Issuance of a security is not establishment of a  
31 security entitlement.

32 Sec. 49. NEW SECTION. 554.8502 ASSERTION OF ADVERSE  
33 CLAIM AGAINST ENTITLEMENT HOLDER.

34 An action based on an adverse claim to a financial asset,  
35 whether framed in conversion, replevin, constructive trust,

1 equitable lien, or other theory, may not be asserted against a  
2 person who acquires a security entitlement under section  
3 554.8501 for value and without notice of the adverse claim.

4 Sec. 50. NEW SECTION. 554.8503 PROPERTY INTEREST OF  
5 ENTITLEMENT HOLDER IN FINANCIAL ASSET HELD BY SECURITIES  
6 INTERMEDIARY.

7 1. To the extent necessary for a securities intermediary  
8 to satisfy all security entitlements with respect to a  
9 particular financial asset, all interests in that financial  
10 asset held by the securities intermediary are held by the  
11 securities intermediary for the entitlement holders, are not  
12 property of the securities intermediary, and are not subject  
13 to claims of creditors of the securities intermediary, except  
14 as otherwise provided in section 554.8511.

15 2. An entitlement holder's property interest with respect  
16 to a particular financial asset under subsection 1 is a pro  
17 rata property interest in all interests in that financial  
18 asset held by the securities intermediary, without regard to  
19 the time the entitlement holder acquired the security  
20 entitlement or the time the securities intermediary acquired  
21 the interest in that financial asset.

22 3. An entitlement holder's property interest with respect  
23 to a particular financial asset under subsection 1 may be  
24 enforced against the securities intermediary only by exercise  
25 of the entitlement holder's rights under sections 554.8505  
26 through 554.8508.

27 4. An entitlement holder's property interest with respect  
28 to a particular financial asset under subsection 1 may be  
29 enforced against a purchaser of the financial asset or  
30 interest therein only if:

31 a. insolvency proceedings have been initiated by or  
32 against the securities intermediary;

33 b. the securities intermediary does not have sufficient  
34 interests in the financial asset to satisfy the security  
35 entitlements of all of its entitlement holders to that



1 financial asset;

2 c. the securities intermediary violated its obligations  
3 under section 554.8504 by transferring the financial asset or  
4 interest therein to the purchaser; and

5 d. the purchaser is not protected under subsection 5. The  
6 trustee or other liquidator, acting on behalf of all  
7 entitlement holders having security entitlements with respect  
8 to a particular financial asset, may recover the financial  
9 asset, or interest therein, from the purchaser. If the  
10 trustee or other liquidator elects not to pursue that right,  
11 an entitlement holder whose security entitlement remains  
12 unsatisfied has the right to recover its interest in the  
13 financial asset from the purchaser.

14 5. An action based on the entitlement holder's property  
15 interest with respect to a particular financial asset under  
16 subsection 1, whether framed in conversion, replevin,  
17 constructive trust, equitable lien, or other theory, may not  
18 be asserted against any purchaser of a financial asset or  
19 interest therein who gives value, obtains control, and does  
20 not act in collusion with the securities intermediary in  
21 violating the securities intermediary's obligations under  
22 section 554.8504.

23 Sec. 51. NEW SECTION. 554.8504 DUTY OF SECURITIES  
24 INTERMEDIARY TO MAINTAIN FINANCIAL ASSET.

25 1. A securities intermediary shall promptly obtain and  
26 thereafter maintain a financial asset in a quantity  
27 corresponding to the aggregate of all security entitlements it  
28 has established in favor of its entitlement holders with  
29 respect to that financial asset. The securities intermediary  
30 may maintain those financial assets directly or through one or  
31 more other securities intermediaries.

32 2. Except to the extent otherwise agreed by its  
33 entitlement holder, a securities intermediary may not grant  
34 any security interests in a financial asset it is obligated to  
35 maintain pursuant to subsection 1.

1 3. A securities intermediary satisfies the duty in  
2 subsection 1 if:

3 a. the securities intermediary acts with respect to the  
4 duty as agreed upon by the entitlement holder and the  
5 securities intermediary; or

6 b. in the absence of agreement, the securities  
7 intermediary exercises due care in accordance with reasonable  
8 commercial standards to obtain and maintain the financial  
9 asset.

10 4. This section does not apply to a clearing corporation  
11 that is itself the obligor of an option or similar obligation  
12 to which its entitlement holders have security entitlements.

13 Sec. 52. NEW SECTION. 554.8505 DUTY OF SECURITIES  
14 INTERMEDIARY WITH RESPECT TO PAYMENTS AND DISTRIBUTIONS.

15 1. A securities intermediary shall take action to obtain a  
16 payment or distribution made by the issuer of a financial  
17 asset. A securities intermediary satisfies the duty if:

18 a. the securities intermediary acts with respect to the  
19 duty as agreed upon by the entitlement holder and the  
20 securities intermediary; or

21 b. in the absence of agreement, the securities  
22 intermediary exercises due care in accordance with reasonable  
23 commercial standards to attempt to obtain the payment or  
24 distribution.

25 2. A securities intermediary is obligated to its  
26 entitlement holder for a payment or distribution made by the  
27 issuer of a financial asset if the payment or distribution is  
28 received by the securities intermediary.

29 Sec. 53. NEW SECTION. 554.8506 DUTY OF SECURITIES  
30 INTERMEDIARY TO EXERCISE RIGHTS AS DIRECTED BY ENTITLEMENT  
31 HOLDER.

32 A securities intermediary shall exercise rights with  
33 respect to a financial asset if directed to do so by an  
34 entitlement holder. A securities intermediary satisfies the  
35 duty if:

1 1. the securities intermediary acts with respect to the  
2 duty as agreed upon by the entitlement holder and the  
3 securities intermediary; or

4 2. in the absence of agreement, the securities  
5 intermediary either places the entitlement holder in a  
6 position to exercise the rights directly or exercises due care  
7 in accordance with reasonable commercial standards to follow  
8 the direction of the entitlement holder.

9 Sec. 54. NEW SECTION. 554.8507 DUTY OF SECURITIES  
10 INTERMEDIARY TO COMPLY WITH ENTITLEMENT ORDER.

11 1. A securities intermediary shall comply with an  
12 entitlement order if the entitlement order is originated by  
13 the appropriate person, the securities intermediary has had  
14 reasonable opportunity to assure itself that the entitlement  
15 order is genuine and authorized, and the securities  
16 intermediary has had reasonable opportunity to comply with the  
17 entitlement order. A securities intermediary satisfies the  
18 duty if:

19 a. the securities intermediary acts with respect to the  
20 duty as agreed upon by the entitlement holder and the  
21 securities intermediary; or

22 b. in the absence of agreement, the securities  
23 intermediary exercises due care in accordance with reasonable  
24 commercial standards to comply with the entitlement order.

25 2. If a securities intermediary transfers a financial  
26 asset pursuant to an ineffective entitlement order, the  
27 securities intermediary shall reestablish a security  
28 entitlement in favor of the person entitled to it, and pay or  
29 credit any payments or distributions that the person did not  
30 receive as a result of the wrongful transfer. If the  
31 securities intermediary does not reestablish a security  
32 entitlement, the securities intermediary is liable to the  
33 entitlement holder for damages.

34 Sec. 55. NEW SECTION. 554.8508 DUTY OF SECURITIES  
35 INTERMEDIARY TO CHANGE ENTITLEMENT HOLDER'S POSITION TO OTHER

1 FORM OF SECURITY HOLDING.

2 A securities intermediary shall act at the direction of an  
3 entitlement holder to change a security entitlement into  
4 another available form of holding for which the entitlement  
5 holder is eligible, or to cause the financial asset to be  
6 transferred to a securities account of the entitlement holder  
7 with another securities intermediary. A securities  
8 intermediary satisfies the duty if:

9 1. the securities intermediary acts as agreed upon by the  
10 entitlement holder and the securities intermediary; or

11 2. in the absence of agreement, the securities  
12 intermediary exercises due care in accordance with reasonable  
13 commercial standards to follow the direction of the  
14 entitlement holder.

15 Sec. 56. NEW SECTION. 554.8509 SPECIFICATION OF DUTIES  
16 OF SECURITIES INTERMEDIARY BY OTHER STATUTE OR REGULATION --  
17 MANNER OF PERFORMANCE OF DUTIES OF SECURITIES INTERMEDIARY AND  
18 EXERCISE OF RIGHTS OF ENTITLEMENT HOLDER.

19 1. If the substance of a duty imposed upon a securities  
20 intermediary by sections 554.8504 through 554.8508 is the  
21 subject of other statute, regulation, or rule, compliance with  
22 that statute, regulation, or rule satisfies the duty.

23 2. To the extent that specific standards for the  
24 performance of the duties of a securities intermediary or the  
25 exercise of the rights of an entitlement holder are not  
26 specified by other statute, regulation, or rule or by  
27 agreement between the securities intermediary and entitlement  
28 holder, the securities intermediary shall perform its duties  
29 and the entitlement holder shall exercise its rights in a  
30 commercially reasonable manner.

31 3. The obligation of a securities intermediary to perform  
32 the duties imposed by sections 554.8504 through 554.8508 is  
33 subject to:

34 a. rights of the securities intermediary arising out of a  
35 security interest under a security agreement with the

1 entitlement holder or otherwise; and

2 b. rights of the securities intermediary under other law,  
3 regulation, rule, or agreement to withhold performance of its  
4 duties as a result of unfulfilled obligations of the  
5 entitlement holder to the securities intermediary.

6 4. Sections 554.8504 through 554.8508 do not require a  
7 securities intermediary to take any action that is prohibited  
8 by other statute, regulation, or rule.

9 Sec. 57. NEW SECTION. 554.8510 RIGHTS OF PURCHASER OF  
10 SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER.

11 1. An action based on an adverse claim to a financial  
12 asset or security entitlement, whether framed in conversion,  
13 replevin, constructive trust, equitable lien, or other theory,  
14 may not be asserted against a person who purchases a security  
15 entitlement, or an interest therein, from an entitlement  
16 holder if the purchaser gives value, does not have notice of  
17 the adverse claim, and obtains control.

18 2. If an adverse claim could not have been asserted  
19 against an entitlement holder under section 554.8502, the  
20 adverse claim cannot be asserted against a person who  
21 purchases a security entitlement, or an interest therein, from  
22 the entitlement holder.

23 3. In a case not covered by the priority rules in Article  
24 9, a purchaser for value of a security entitlement, or an  
25 interest therein, who obtains control has priority over a  
26 purchaser of a security entitlement, or an interest therein,  
27 who does not obtain control. Purchasers who have control rank  
28 equally, except that a securities intermediary as purchaser  
29 has priority over a conflicting purchaser who has control  
30 unless otherwise agreed by the securities intermediary.

31 Sec. 58. NEW SECTION. 554.8511 PRIORITY AMONG SECURITY  
32 INTERESTS AND ENTITLEMENT HOLDERS.

33 1. Except as otherwise provided in subsections 2 and 3, if  
34 a securities intermediary does not have sufficient interests  
35 in a particular financial asset to satisfy both its

1 obligations to entitlement holders who have security  
2 entitlements to that financial asset and its obligation to a  
3 creditor of the securities intermediary who has a security  
4 interest in that financial asset, the claims of entitlement  
5 holders, other than the creditor, have priority over the claim  
6 of the creditor.

7 2. A claim of a creditor of a securities intermediary who  
8 has a security interest in a financial asset held by a  
9 securities intermediary has priority over claims of the  
10 securities intermediary's entitlement holders who have  
11 security entitlements with respect to that financial asset if  
12 the creditor has control over the financial asset.

13 3. If a clearing corporation does not have sufficient  
14 financial assets to satisfy both its obligations to  
15 entitlement holders who have security entitlements with  
16 respect to a financial asset and its obligation to a creditor  
17 of the clearing corporation who has a security interest in  
18 that financial asset, the claim of the creditor has priority  
19 over the claims of entitlement holders.

20 Sec. 59. Section 554.9103, subsection 6, Code 1995, is  
21 amended by striking the subsection and inserting in lieu  
22 thereof the following:

23 6. INVESTMENT PROPERTY.

24 a. This subsection applies to investment property.

25 b. Except as otherwise provided in paragraph "f", during  
26 the time that a security certificate is located in a  
27 jurisdiction, perfection of a security interest, the effect of  
28 perfection or nonperfection, and the priority of a security  
29 interest in the certificated security represented thereby are  
30 governed by the local law of that jurisdiction.

31 c. Except as otherwise provided in paragraph "f",  
32 perfection of a security interest, the effect of perfection or  
33 non-perfection, and the priority of a security interest in an  
34 uncertificated security are governed by the local law of the  
35 issuer's jurisdiction as specified in section 554.8110,

1 subsection 4.

2 d. Except as otherwise provided in paragraph "f",  
3 perfection of a security interest, the effect of perfection or  
4 non-perfection, and the priority of a security interest in a  
5 security entitlement or securities account are governed by the  
6 local law of the securities intermediary's jurisdiction as  
7 specified in section 554.8110, subsection 5.

8 e. Except as otherwise provided in paragraph "f",  
9 perfection of a security interest, the effect of perfection or  
10 non-perfection, and the priority of a security interest in a  
11 commodity contract or commodity account are governed by the  
12 local law of the commodity intermediary's jurisdiction. The  
13 following rules determine a "commodity intermediary's  
14 jurisdiction" for purposes of this paragraph:

15 (1) If an agreement between the commodity intermediary and  
16 commodity customer specifies that it is governed by the law of  
17 a particular jurisdiction, that jurisdiction is the commodity  
18 intermediary's jurisdiction.

19 (2) If an agreement between the commodity intermediary and  
20 commodity customer does not specify the governing law as  
21 provided in subparagraph (1), but expressly specifies that the  
22 commodity account is maintained at an office in a particular  
23 jurisdiction, that jurisdiction is the commodity  
24 intermediary's jurisdiction.

25 (3) If an agreement between the commodity intermediary and  
26 commodity customer does not specify a jurisdiction as provided  
27 in subparagraph (1) or (2), the commodity intermediary's  
28 jurisdiction is the jurisdiction in which is located the  
29 office identified in an account statement as the office  
30 serving the commodity customer's account.

31 (4) If an agreement between the commodity intermediary and  
32 commodity customer does not specify a jurisdiction as provided  
33 in subparagraph (1) or (2) and an account statement does not  
34 identify an office serving the commodity customer's account as  
35 provided in subparagraph (3), the commodity intermediary's

1 jurisdiction is the jurisdiction in which is located the chief  
2 executive office of the commodity intermediary.

3 f. Perfection of a security interest by filing, automatic  
4 perfection of a security interest in investment property  
5 granted by a broker or securities intermediary, and automatic  
6 perfection of a security interest in a commodity contract or  
7 commodity account granted by a commodity intermediary are  
8 governed by the local law of the jurisdiction in which the  
9 debtor is located.

10 Sec. 60. Section 554.9105, subsection 1, paragraphs h and  
11 i, Code 1995, are amended to read as follows:

12 h. "Goods" include all things which are movable at the  
13 time the security interest attaches or which are fixtures  
14 (section 554.9313), but do not include money, documents,  
15 instruments, investment property, accounts, chattel paper,  
16 general intangibles or minerals or the like (including oil and  
17 gas) before extraction. "Goods" also include standing timber  
18 which is to be cut and removed under a conveyance or contract  
19 for sale, the unborn young of animals and growing crops;

20 i. "Instrument" means a negotiable instrument (defined in  
21 section 554.3104), ~~or a certificated security (defined in~~  
22 ~~section 554.8102)~~ or any other writing which evidences a right  
23 to the payment of money and is not itself a security agreement  
24 or lease and is of a type which is in ordinary course of  
25 business transferred by delivery with any necessary  
26 endorsement or assignment. The term does not include  
27 investment property;

28 Sec. 61. Section 554.9105, subsection 2, Code 1995, is  
29 amended to read as follows:

30 2. Other definitions applying to this Article and the  
31 sections in which they appear are:

32 "Account"	Section 554.9106
33 "Attach"	Section 554.9203
34 " <u>Commodity contract</u> "	Section 554.9115
35 " <u>Commodity customer</u> "	Section 554.9115



1	<u>"Commodity intermediary"</u>	Section 554.9115
2	"Construction mortgage"	Section 554.9313(1)
3	"Consumer goods"	Section 554.9109(1)
4	<u>"Control"</u>	Section 554.9115
5	<u>"Equipment"</u>	Section 554.9109(2)
6	"Farm products"	Section 554.9109(3)
7	"Fixture"	Section 554.9313
8	"Fixture filing"	Section 554.9313
9	"General intangibles"	Section 554.9106
10	"Inventory"	Section 554.9109(4)
11	<u>"Investment property"</u>	Section 554.9115
12	"Lien creditor"	Section 554.9301(3)
13	"Proceeds"	Section 554.9306(1)
14	"Purchase money security	
15	interest"	Section 554.9107
16	"United States"	Section 554.9103
17	Sec. 62. Section 554.9105, subsection 3, Code 1995, is	
18	amended to read as follows:	
19	3. The following definitions in other Articles apply to	
20	this Article:	
21	<u>"Broker"</u>	Section 554.8102
22	<u>"Certificated security"</u>	Section 554.8102
23	"Check"	Section 554.3104
24	<u>"Clearing corporation"</u>	Section 554.8102
25	"Contract for sale"	Section 554.2106
26	<u>"Control"</u>	Section 554.8106
27	<u>"Delivery"</u>	Section 554.8301
28	<u>"Entitlement holder"</u>	Section 554.8102
29	<u>"Financial asset"</u>	Section 554.8102
30	"Holder in due course"	Section 554.3302
31	"Note"	Section 554.3104
32	"Sale"	Section 554.2106
33	<u>"Securities intermediary"</u>	Section 554.8102
34	<u>"Security"</u>	Section 554.8102
35	<u>"Security certificate"</u>	Section 554.8102

1 "Security entitlement" Section 554.8102

2 "Uncertificated security " Section 554.8102

3 Sec. 63. Section 554.9106, Code 1995, is amended to read  
4 as follows:

5 554.9106 DEFINITIONS: "ACCOUNT" -- "GENERAL INTANGIBLES."

6 "Account" means any right to payment for goods sold or  
7 leased or for services rendered which is not evidenced by an  
8 instrument or chattel paper, whether or not it has been earned  
9 by performance. "General intangibles" means any personal  
10 property (including things in action) other than goods,  
11 accounts, chattel paper, documents, instruments, investment  
12 property, and money. All rights to payment earned or unearned  
13 under a charter or other contract involving the use or hire of  
14 a vessel and all rights incident to the charter or contract  
15 are accounts.

16 Sec. 64. NEW SECTION. 554.9115 INVESTMENT PROPERTY.

17 1. In this Article:

18 a. "Commodity account" means an account maintained by a  
19 commodity intermediary in which a commodity contract is  
20 carried for a commodity customer.

21 b. "Commodity contract" means a commodity futures  
22 contract, an option on a commodity futures contract, a  
23 commodity option, or other contract that, in each case, is:

24 (1) traded on or subject to the rules of a board of trade  
25 that has been designated as a contract market for such a  
26 contract pursuant to the federal commodities laws; or

27 (2) traded on a foreign commodity board of trade,  
28 exchange, or market, and is carried on the books of a  
29 commodity intermediary for a commodity customer.

30 c. "Commodity customer" means a person for whom a  
31 commodity intermediary carries a commodity contract on its  
32 books.

33 d. "Commodity intermediary" means:

34 (1) a person who is registered as a futures commission  
35 merchant under the federal commodities laws; or

1 (2) a person who in the ordinary course of its business  
2 provides clearance or settlement services for a board of trade  
3 that has been designated as a contract market pursuant to the  
4 federal commodities laws.

5 e. "Control" with respect to a certificated security,  
6 uncertificated security, or security entitlement has the  
7 meaning specified in section 554.8106. A secured party has  
8 control over a commodity contract if by agreement among the  
9 commodity customer, the commodity intermediary, and the  
10 secured party, the commodity intermediary has agreed that it  
11 will apply any value distributed on account of the commodity  
12 contract as directed by the secured party without further  
13 consent by the commodity customer. If a commodity customer  
14 grants a security interest in a commodity contract to its own  
15 commodity intermediary, the commodity intermediary as secured  
16 party has control. A secured party has control over a  
17 securities account or commodity account if the secured party  
18 has control over all security entitlements or commodity  
19 contracts carried in the securities account or commodity  
20 account.

21 f. "Investment property" means:

- 22 (1) a security, whether certificated or uncertificated;
- 23 (2) a security entitlement;
- 24 (3) a securities account;
- 25 (4) a commodity contract; or
- 26 (5) a commodity account.

27 2. Attachment or perfection of a security interest in a  
28 securities account is also attachment or perfection of a  
29 security interest in all security entitlements carried in the  
30 securities account. Attachment or perfection of a security  
31 interest in a commodity account is also attachment or  
32 perfection of a security interest in all commodity contracts  
33 carried in the commodity account.

34 3. A description of collateral in a security agreement or  
35 financing statement is sufficient to create or perfect a

1 security interest in a certificated security, uncertificated  
2 security, security entitlement, securities account, commodity  
3 contract, or commodity account whether it describes the  
4 collateral by those terms, or as investment property, or by  
5 description of the underlying security, financial asset, or  
6 commodity contract. A description of investment property  
7 collateral in a security agreement or financing statement is  
8 sufficient if it identifies the collateral by specific  
9 listing, by category, by quantity, by a computational or  
10 allocational formula or procedure, or by any other method, if  
11 the identity of the collateral is objectively determinable.

12 4. Perfection of a security interest in investment  
13 property is governed by the following rules:

14 a. a security interest in investment property may be  
15 perfected by control.

16 b. except as otherwise provided in paragraphs "c" and "d",  
17 a security interest in investment property may be perfected by  
18 filing.

19 c. if the debtor is a broker or securities intermediary, a  
20 security interest in investment property is perfected when it  
21 attaches. The filing of a financing statement with respect to  
22 a security interest in investment property granted by a broker  
23 or securities intermediary has no effect for purposes of  
24 perfection or priority with respect to that security interest.

25 d. if a debtor is a commodity intermediary, a security  
26 interest in a commodity contract or a commodity account is  
27 perfected when it attaches. The filing of a financing  
28 statement with respect to a security interest in a commodity  
29 contract or a commodity account granted by a commodity  
30 intermediary has no effect for purposes of perfection or  
31 priority with respect to that security interest.

32 5. Priority between conflicting security interests in the  
33 same investment property is governed by the following rules:

34 a. a security interest of a secured party who has control  
35 over investment property has priority over a security interest

1 of a secured party who does not have control over the  
2 investment property.

3 b. except as otherwise provided in paragraphs "c" and "d",  
4 conflicting security interests of secured parties each of whom  
5 has control rank equally.

6 c. except as otherwise agreed by the securities  
7 intermediary, a security interest in a security entitlement or  
8 a securities account granted to the debtor's own securities  
9 intermediary has priority over any security interest granted  
10 by the debtor to another secured party.

11 d. except as otherwise agreed by the commodity  
12 intermediary, a security interest in a commodity contract or a  
13 commodity account granted to the debtor's own commodity  
14 intermediary has priority over any security interest granted  
15 by the debtor to another secured party.

16 e. conflicting security interests granted by a broker, a  
17 securities intermediary, or a commodity intermediary which are  
18 perfected without control rank equally.

19 f. in all other cases, priority between conflicting  
20 security interests in investment property is governed by  
21 section 554.9312, subsections 5, 6, and 7. Section 554.9312,  
22 subsection 4, does not apply to investment property.

23 6. If a security certificate in registered form is  
24 delivered to a secured party pursuant to agreement, a written  
25 security agreement is not required for attachment or  
26 enforceability of the security interest, delivery suffices for  
27 perfection of the security interest, and the security interest  
28 has priority over a conflicting security interest perfected by  
29 means other than control, even if a necessary indorsement is  
30 lacking.

31 Sec. 65. NEW SECTION. 554.9116 SECURITY INTEREST ARISING  
32 IN PURCHASE OR DELIVERY OF FINANCIAL ASSET.

33 1. If a person buys a financial asset through a securities  
34 intermediary in a transaction in which the buyer is obligated  
35 to pay the purchase price to the securities intermediary at

1 the time of the purchase, and the securities intermediary  
2 credits the financial asset to the buyer's securities account  
3 before the buyer pays the securities intermediary, the  
4 securities intermediary has a security interest in the buyer's  
5 security entitlement securing the buyer's obligation to pay.  
6 A security agreement is not required for attachment or  
7 enforceability of the security interest, and the security  
8 interest is automatically perfected.

9 2. If a certificated security, or other financial asset  
10 represented by a writing which in the ordinary course of  
11 business is transferred by delivery with any necessary  
12 indorsement or assignment is delivered pursuant to an  
13 agreement between persons in the business of dealing with such  
14 securities or financial assets and the agreement calls for  
15 delivery versus payment, the person delivering the certificate  
16 or other financial asset has a security interest in the  
17 certificated security or other financial asset securing the  
18 seller's right to receive payment. A security agreement is  
19 not required for attachment or enforceability of the security  
20 interest, and the security interest is automatically  
21 perfected.

22 Sec. 66. Section 554.9203, subsection 1, Code 1995, is  
23 amended to read as follows:

24 1. Subject to the provisions of section 554.4210 on the  
25 security interest of a collecting bank, ~~section-554-8321-on~~  
26 ~~security-interests-in-securities~~ sections 554.9115 and  
27 554.9116 on security interests in investment property, and  
28 section 554.9113 on a security interest arising under the  
29 Article on Sales, a security interest is not enforceable  
30 against the debtor or third parties with respect to the  
31 collateral and does not attach unless:

32 a. the collateral is in the possession of the secured  
33 party pursuant to agreement, the collateral is investment  
34 property and the secured party has control pursuant to  
35 agreement, or the debtor has signed a security agreement which

1 contains a description of the collateral and in addition, when  
2 the security interest covers crops growing or to be grown or  
3 timber to be cut, a description of the land concerned;

4 b. value has been given; and

5 c. the debtor has rights in the collateral.

6 Sec. 67. Section 554.9301, subsection 1, paragraph d, Code  
7 1995, is amended to read as follows:

8 d. in the case of accounts, and general intangibles, and  
9 investment property, a person who is not a secured party and  
10 who is a transferee to the extent that that person gives value  
11 without knowledge of the security interest and before it is  
12 perfected.

13 Sec. 68. Section 554.9302, subsection 1, paragraphs b, f,  
14 and g, Code 1995, are amended to read as follows:

15 b. a security interest temporarily perfected in  
16 instruments, certificated securities, or documents without  
17 delivery under section 554.9304 or in proceeds for a ten-day  
18 period under section 554.9306;

19 f. a security interest of a collecting bank (section  
20 554.4210) ~~or-in-securities-(section-554-8321)~~ or arising under  
21 the Article on Sales (see section 554.9113) or covered in  
22 subsection 3 of this section;

23 g. an assignment for the benefit of all the creditors of  
24 the transferor, and subsequent transfers by the assignee  
25 thereunder;

26 Sec. 69. Section 554.9302, subsection 1, Code 1995, is  
27 amended by adding the following new paragraph:

28 NEW PARAGRAPH. h. a security interest in investment  
29 property which is perfected without filing under section  
30 554.9115 or section 554.9116.

31 Sec. 70. Section 554.9303, subsection 1, Code 1995, is  
32 amended to read as follows:

33 1. A security interest is perfected when it has attached  
34 and when all of the applicable steps required for perfection  
35 have been taken. Such steps are specified in sections

1 554.9115, 554.9302, 554.9304, 554.9305 and 554.9306. If such  
2 steps are taken before the security interest attaches, it is  
3 perfected at the time when it attaches.

4 Sec. 71. Section 554.9304, subsections 1, 4, and 5, Code  
5 1995, are amended to read as follows:

6 1. A security interest in chattel paper or negotiable  
7 documents may be perfected by filing. A security interest in  
8 money or instruments (other than ~~certificated-securities-or~~  
9 instruments which constitute part of chattel paper) can be  
10 perfected only by the secured party's taking possession,  
11 except as provided in subsections 4 and 5 of this section and  
12 section 554.9306, subsections 2 and 3, on proceeds.

\*13 4. A security interest in instruments, ~~(other-than~~  
14 ~~certificated securities)~~, or negotiable documents is perfected  
15 without filing or the taking of possession for a period of  
16 twenty-one days from the time it attaches to the extent that  
17 it arises for new value given under a written security  
18 agreement.

19 5. A security interest remains perfected for a period of  
20 twenty-one days without filing where a secured party having a  
21 perfected security interest in an instrument, ~~(other-than a~~  
22 ~~certificated securities)~~, security, a negotiable document or  
23 goods in possession of a bailee other than one who has issued  
24 a negotiable document therefor

25 a. makes available to the debtor the goods or documents  
26 representing the goods for the purpose of ultimate sale or  
27 exchange or for the purpose of loading, unloading, storing,  
28 shipping, transshipping, manufacturing, processing or  
29 otherwise dealing with them in a manner preliminary to their  
30 sale or exchange, but priority between conflicting security  
31 interests in the goods is subject to section 554.9312,  
32 subsection 3; or

33 b. delivers the instrument or certificated security to the  
34 debtor for the purpose of ultimate sale or exchange or of  
35 presentation, collection, renewal, or registration of



1 transfer.

2 Sec. 72. Section 554.9305, Code 1995, is amended to read  
3 as follows:

4 554.9305 WHEN POSSESSION BY SECURED PARTY PERFECTS  
5 SECURITY INTEREST WITHOUT FILING.

6 A security interest in letters of credit and advices of  
7 credit (subsection 2 "a" of section 554.5116), goods,  
8 instruments (~~other than certificated securities~~), money,  
9 negotiable documents or chattel paper may be perfected by the  
10 secured party's taking possession of the collateral. If such  
11 collateral other than goods covered by a negotiable document  
12 is held by a bailee, the secured party is deemed to have  
13 possession from the time the bailee receives notification of  
14 the secured party's interest. A security interest is  
15 perfected by possession from the time possession is taken  
16 without relation back and continues only so long as possession  
17 is retained, unless otherwise specified in this Article. The  
18 security interest may be otherwise perfected as provided in  
19 this Article before or after the period of possession by the  
20 secured party.

21 Sec. 73. Section 554.9306, subsection 1, Code 1995, is  
22 amended to read as follows:

23 1. "Proceeds" include whatever is received upon the sale,  
24 exchange, collection or other disposition of collateral or  
25 proceeds. Insurance payable by reason of loss or damage to  
26 the collateral is proceeds, except to the extent that it is  
27 payable to a person other than a party to the security  
28 agreement. Any payments or distributions made with respect to  
29 investment property collateral are proceeds. Money, checks,  
30 deposit accounts and the like are "cash proceeds". All other  
31 proceeds are "noncash proceeds".

32 Sec. 74. Section 554.9306, subsection 3, paragraph b, Code  
33 1995, is amended to read as follows:

34 b. a filed financing statement covers the original  
35 collateral and the proceeds are identifiable cash proceeds; or

1 Sec. 75. Section 554.9306, subsection 3, Code 1995, is  
2 amended by adding the following new paragraph after paragraph  
3 b and relettering subsequent paragraphs:

4 NEW PARAGRAPH. c. the original collateral was investment  
5 property and the proceeds are identifiable cash proceeds; or

6 Sec. 76. Section 554.9309, Code 1995, is amended to read  
7 as follows:

8 554.9309 PROTECTION OF PURCHASERS OF INSTRUMENTS AND  
9 DOCUMENTS AND SECURITIES.

10 Nothing in this Article limits the rights of a holder in  
11 due course of a negotiable instrument (section 554.3302) or a  
12 holder to whom a negotiable document of title has been duly  
13 negotiated (section 554.7501) or a bona-fide protected  
14 purchaser of a security (section ~~554.8302~~ 554.8303) and such  
15 holders or purchasers take priority over an earlier security  
16 interest even though perfected. Filing under this Article  
17 does not constitute notice of the security interest to such  
18 holders or purchasers.

19 Sec. 77. Section 554.9312, subsections 1 and 7, Code 1995,  
20 are amended to read as follows:

21 1. The rules of priority stated in other sections of this  
22 Part and in the following sections shall govern when  
23 applicable: section 554.4210 with respect to the security  
24 interests of collecting banks in items being collected,  
25 accompanying documents and proceeds; section 554.9103 on  
26 security interests related to other jurisdictions; section  
27 554.9114 on consignments; section 554.9115 on security  
28 interest in investment property.

29 7. If future advances are made while a security interest  
30 is perfected by filing, the taking of possession, or under  
31 ~~section 554.8321-on-securities~~ 554.9115 or section 554.9116 on  
32 investment property, the security interest has the same  
33 priority for the purposes of subsection 5 or section 554.9115,  
34 subsection 5, with respect to the future advances as it does  
35 with respect to the first advance. If a commitment is made

1 before or while the security interest is so perfected, the  
2 security interest has the same priority with respect to  
3 advances made pursuant thereto. In other cases a perfected  
4 security interest has priority from the date the advance is  
5 made.

6 Sec. 78. Section 554.10104, subsection 2, Code 1995, is  
7 amended by striking the subsection.

8 Sec. 79. Section 633.89, unnumbered paragraph 1, Code  
9 1995, is amended to read as follows:

10 A fiduciary as defined in section 633.3, subsection-17,  
11 holding securities, and a bank as defined in section 524.103,  
12 subsection-7, which is holding securities as a managing agent  
13 or as a custodian, including a custodian for a fiduciary, may  
14 deposit securities in a clearing corporation, as defined in  
15 section 554.8102, subsection-3, which is located within or  
16 without the state of Iowa, if the clearing corporation is  
17 federally regulated. A depositing bank is subject to rules  
18 adopted by the superintendent of banking, with respect to  
19 state banks, and by the comptroller of the currency, with  
20 respect to national banking associations.

21 Sec. 80. SAVINGS CLAUSE.

22 1. This Act does not affect an action or proceeding  
23 commenced before this Act takes effect.

24 2. If a security interest in a security is perfected at  
25 the date this Act takes effect, and the action by which the  
26 security interest was perfected would suffice to perfect a  
27 security interest under this Act, no further action is  
28 required to continue perfection. If a security interest in a  
29 security is perfected at the date this Act takes effect but  
30 the action by which the security interest was perfected would  
31 not suffice to perfect a security interest under this Act, the  
32 security interest remains perfected for a period of four  
33 months after the effective date and continues perfected  
34 thereafter if appropriate action to perfect under this Act is  
35 taken within that period. If a security interest is perfected

1 at the date this Act takes effect and the security interest  
2 can be perfected by filing under this Act, a financing  
3 statement signed by the secured party instead of the debtor  
4 may be filed within that period to continue perfection or  
5 thereafter to perfect.

6 Sec. 81. REPEALS.

7 1. Sections 554.8308 through 554.8321, Code 1995, are  
8 repealed.

9 2. Section 554.8408, Code 1995, is repealed.

10 Sec. 82. Sections 633.130 through 633.138, Code 1995, are  
11 repealed.

12 Sec. 83. PREVAILING STATUTE. If 1996 Iowa Acts, Senate  
13 File 2270, or 1996 Iowa Acts, House File 2402, is enacted,  
14 either of those Acts prevails over the amendments to section  
15 554.5114 in this Act.

16 Sec. 84. EFFECTIVE DATE. This Act becomes effective on  
17 July 1, 1997.

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Succeeded By  
SF/HF 2368 Commerce

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMISSION ON UNIFORM  
STATE LAWS BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for the regulation of investment securities  
2 under Article 8 of the Uniform Commercial Code, and providing  
3 conforming changes, and an effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 554.1105, subsection 2, Code 1995, is  
2 amended to read as follows:

3 2. Where one of the following provisions of this chapter  
4 specifies the applicable law, that provision governs and a  
5 contrary agreement is effective only to the extent permitted  
6 by the law (including the conflict of laws rules) so  
7 specified:

8 Rights of creditors against sold goods. Section 554.2402.

9 Applicability of the Article on Bank Deposits and  
10 Collections. Section 554.4102.

11 Applicability of the Article on Investment Securities.  
12 Section ~~554-8106~~ 554.8110.

13 Perfection provisions of the Article on Secured  
14 Transactions. Section 554.9103.

15 Governing law in the Article on Funds Transfers. Section  
16 554.12507.

17 Applicability of the Article on Leases. Sections 554.13105  
18 and 554.13106.

19 Sec. 2. Section 554.1206, subsection 2, Code 1995, is  
20 amended to read as follows:

21 2. Subsection 1 of this section does not apply to  
22 contracts for the sale of goods (section 554.2201) nor of  
23 securities (section ~~554-8319~~ 554.8113) nor to security  
24 agreements (section 554.9203).

25 Sec. 3. Section 554.4104, subsection 1, paragraph f, Code  
26 Supplement 1995, is amended to read as follows:

27 f. "Documentary draft" means a draft to be presented for  
28 acceptance or payment if specified documents, certificated  
29 securities (section 554.8102) or instructions for  
30 uncertificated securities (section ~~554-8308~~ 554.8102), or  
31 other certificates, statements, or the like are to be received  
32 by the drawee or other payor before acceptance or payment of  
33 the draft.

34 Sec. 4. Section 554.5114, subsection 2, unnumbered  
35 paragraph 1, Code 1995, is amended to read as follows:

1 Unless otherwise agreed when documents appear on their face  
2 to comply with the terms of a credit but a required document  
3 does not in fact conform to the warranties made on negotiation  
4 or transfer of a document of title (section 554.7507) or of a  
5 certificated security (section ~~554.8306~~ 554.8108) or is forged  
6 or fraudulent or there is fraud in the transaction:

7 PART 1

8 SHORT TITLE AND GENERAL MATTERS

9 Sec. 5. Section 554.8102, Code 1995, is amended by  
10 striking the section and inserting in lieu thereof the  
11 following:

12 554.8102 DEFINITIONS AND INDEX OF DEFINITIONS.

13 1. In this Article:

14 a. "Adverse claim" means a claim that a claimant has a  
15 property interest in a financial asset and that it is a  
16 violation of the rights of the claimant for another person to  
17 hold, transfer, or deal with the financial asset.

18 b. "Bearer form", as applied to a certificated security,  
19 means a form in which the security is payable to the bearer of  
20 the security certificate according to its terms but not by  
21 reason of an indorsement.

22 c. "Broker" means a person defined as a broker or dealer  
23 under the federal securities laws, but without excluding a  
24 bank acting in that capacity.

25 d. "Certificated security" means a security that is  
26 represented by a certificate.

27 e. "Clearing corporation" means:

28 (1) a person that is registered as a "clearing agency"  
29 under the federal securities laws;

30 (2) a federal reserve bank; or

31 (3) any other person that provides clearance or settlement  
32 services with respect to financial assets that would require  
33 it to register as a clearing agency under the federal  
34 securities laws but for an exclusion or exemption from the  
35 registration requirement, if its activities as a clearing

1 corporation, including promulgation of rules, are subject to  
2 regulation by a federal or state governmental authority.

3 f. "Communicate" means to:

4 (1) send a signed writing; or

5 (2) transmit information by any mechanism agreed upon by  
6 the persons transmitting and receiving the information.

7 g. "Entitlement holder" means a person identified in the  
8 records of a securities intermediary as the person having a  
9 security entitlement against the securities intermediary. If  
10 a person acquires a security entitlement by virtue of section  
11 554.8501, subsection 2, paragraph "b" or "c", that person is  
12 the entitlement holder.

13 h. "Entitlement order" means a notification communicated  
14 to a securities intermediary directing transfer or redemption  
15 of a financial asset to which the entitlement holder has a  
16 security entitlement.

17 i. "Financial asset", except as otherwise provided in  
18 section 554.8103, means:

19 (1) a security;

20 (2) an obligation of a person or a share, participation,  
21 or other interest in a person or in property or an enterprise  
22 of a person, which is, or is of a type, dealt in or traded on  
23 financial markets, or which is recognized in any area in which  
24 it is issued or dealt in as a medium for investment; or

25 (3) any property that is held by a securities intermediary  
26 for another person in a securities account if the securities  
27 intermediary has expressly agreed with the other person that  
28 the property is to be treated as a financial asset under this  
29 Article.

30 As context requires, the term means either the interest  
31 itself or the means by which a person's claim to it is  
32 evidenced, including a certificated or uncertificated  
33 security, a security certificate, or a security entitlement.

34 j. "Good faith", for purposes of the obligation of good  
35 faith in the performance or enforcement of contracts or duties



1 within this Article, means honesty in fact and the observance  
2 of reasonable commercial standards of fair dealing.

3 k. "Indorsement" means a signature that alone or  
4 accompanied by other words is made on a security certificate  
5 in registered form or on a separate document for the purpose  
6 of assigning, transferring, or redeeming the security or  
7 granting a power to assign, transfer, or redeem it.

8 l. "Instruction" means a notification communicated to the  
9 issuer of an uncertificated security which directs that the  
10 transfer of the security be registered or that the security be  
11 redeemed.

12 m. "Registered form", as applied to a certificated  
13 security, means a form in which:

14 (1) the security certificate specifies a person entitled  
15 to the security; and

16 (2) a transfer of the security may be registered upon  
17 books maintained for that purpose by or on behalf of the  
18 issuer, or the security certificate so states.

19 n. "Securities intermediary" means:

20 (1) a clearing corporation; or

21 (2) a person, including a bank or broker, that in the  
22 ordinary course of its business maintains securities accounts  
23 for others and is acting in that capacity.

24 o. "Security", except as otherwise provided in section  
25 554.8103, means an obligation of an issuer or a share,  
26 participation, or other interest in an issuer or in property  
27 or an enterprise of an issuer:

28 (1) which is represented by a security certificate in  
29 bearer or registered form, or the transfer of which may be  
30 registered upon books maintained for that purpose by or on  
31 behalf of the issuer;

32 (2) which is one of a class or series or by its terms is  
33 divisible into a class or series of shares, participations,  
34 interests, or obligations; and

35 (3) which:

1 (a) is, or is of a type, dealt in or traded on securities  
2 exchanges or securities markets; or

3 (b) is a medium for investment and by its terms expressly  
4 provides that it is a security governed by this Article.

5 p. "Security certificate" means a certificate representing  
6 a security.

7 q. "Security entitlement" means the rights and property  
8 interest of an entitlement holder with respect to a financial  
9 asset specified in Part 5.

10 r. "Uncertificated security" means a security that is not  
11 represented by a certificate.

12 2. Other definitions applying to this Article and the  
13 sections in which they appear are:

14	Appropriate person .....	Section 554.8107
15	Control .....	Section 554.8106
16	Delivery .....	Section 554.8301
17	Investment company	
18	security .....	Section 554.8103
19	Issuer .....	Section 554.8201
20	Overissue .....	Section 554.8210
21	Protected purchaser .....	Section 554.8303
22	Securities account .....	Section 554.8501

23 3. In addition, Article 1 contains general definitions and  
24 principles of construction and interpretation applicable  
25 throughout this Article.

26 4. The characterization of a person, business, or  
27 transaction for purposes of this Article does not determine  
28 the characterization of the person, business, or transaction  
29 for purposes of any other law, regulation, or rule.

30 Sec. 6. Section 554.8103, Code 1995, is amended by  
31 striking the section and inserting in lieu thereof the  
32 following:

33 554.8103 RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS  
34 AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS.

35 1. A share or similar equity interest issued by a

1 corporation, business trust, joint stock company, or similar  
2 entity is a security.

3 2. An "investment company security" is a security.

4 "Investment company security" means a share or similar equity  
5 interest issued by an entity that is registered as an  
6 investment company under the federal investment company laws,  
7 an interest in a unit investment trust that is so registered,  
8 or a face-amount certificate issued by a face-amount  
9 certificate company that is so registered. Investment company  
10 security does not include an insurance policy or endowment  
11 policy or annuity contract issued by an insurance company.

12 3. An interest in a partnership or limited liability  
13 company is not a security unless it is dealt in or traded on  
14 securities exchanges or in securities markets, its terms  
15 expressly provide that it is a security governed by this  
16 Article, or it is an investment company security. However, an  
17 interest in a partnership or limited liability company is a  
18 financial asset if it is held in a securities account.

19 4. A writing that is a security certificate is governed by  
20 this Article and not by Article 3, even though it also meets  
21 the requirements of that Article. However, a negotiable  
22 instrument governed by Article 3 is a financial asset if it is  
23 held in a securities account.

24 5. An option or similar obligation issued by a clearing  
25 corporation to its participants is not a security, but is a  
26 financial asset.

27 6. A commodity contract, as defined in section 554.9115,  
28 is not a security or a financial asset.

29 Sec. 7. Section 554.8104, Code 1995, is amended by  
30 striking the section and inserting in lieu thereof the  
31 following:

32 554.8104 ACQUISITION OF SECURITY OR FINANCIAL ASSET OR  
33 INTEREST THEREIN.

34 1. A person acquires a security or an interest therein,  
35 under this Article, if:

1 a. the person is a purchaser to whom a security is  
2 delivered pursuant to section 554.8301; or

3 b. the person acquires a security entitlement to the  
4 security pursuant to section 554.8501.

5 2. A person acquires a financial asset, other than a  
6 security, or an interest therein, under this Article, if the  
7 person acquires a security entitlement to the financial asset.

8 3. A person who acquires a security entitlement to a  
9 security or other financial asset has the rights specified in  
10 Part 5, but is a purchaser of any security, security  
11 entitlement, or other financial asset held by the securities  
12 intermediary only to the extent provided in section 554.8503.

13 4. Unless the context shows that a different meaning is  
14 intended, a person who is required by other law, regulation,  
15 rule, or agreement to transfer, deliver, present, surrender,  
16 exchange, or otherwise put in the possession of another person  
17 a security or financial asset satisfies that requirement by  
18 causing the other person to acquire an interest in the  
19 security or financial asset pursuant to subsection 1 or 2.

20 Sec. 8. Section 554.8105, Code 1995, is amended by  
21 striking the section and inserting in lieu thereof the  
22 following:

23 554.8105 NOTICE OF ADVERSE CLAIM.

24 1. A person has notice of an adverse claim if:

25 a. the person knows of the adverse claim;

26 b. the person is aware of facts sufficient to indicate  
27 that there is a significant probability that the adverse claim  
28 exists and deliberately avoids information that would  
29 establish the existence of the adverse claim; or

30 c. the person has a duty, imposed by statute or  
31 regulation, to investigate whether an adverse claim exists,  
32 and the investigation so required would establish the  
33 existence of the adverse claim.

34 2. Having knowledge that a financial asset or interest  
35 therein is or has been transferred by a representative imposes

1 no duty of inquiry into the rightfulness of a transaction and  
2 is not notice of an adverse claim. However, a person who  
3 knows that a representative has transferred a financial asset  
4 or interest therein in a transaction that is, or whose  
5 proceeds are being used, for the individual benefit of the  
6 representative or otherwise in breach of duty has notice of an  
7 adverse claim.

8 3. An act or event that creates a right to immediate  
9 performance of the principal obligation represented by a  
10 security certificate or sets a date on or after which the  
11 certificate is to be presented or surrendered for redemption  
12 or exchange does not itself constitute notice of an adverse  
13 claim except in the case of a transfer more than:

14 a. one year after a date set for presentment or surrender  
15 for redemption or exchange; or

16 b. six months after a date set for payment of money  
17 against presentation or surrender of the certificate, if money  
18 was available for payment on that date.

19 4. A purchaser of a certificated security has notice of an  
20 adverse claim if the security certificate:

21 a. whether in bearer or registered form, has been indorsed  
22 "for collection" or "for surrender" or for some other purpose  
23 not involving transfer; or

24 b. is in bearer form and has on it an unambiguous  
25 statement that it is the property of a person other than the  
26 transferor, but the mere writing of a name on the certificate  
27 is not such a statement.

28 5. Filing of a financing statement under Article 9 is not  
29 notice of an adverse claim to a financial asset.

30 Sec. 9. Section 554.8106, Code 1995, is amended by  
31 striking the section and inserting in lieu thereof the  
32 following:

33 554.8106 CONTROL.

34 1. A purchaser has "control" of a certificated security in  
35 bearer form if the certificated security is delivered to the

1 purchaser.

2 2. A purchaser has "control" of a certificated security in  
3 registered form if the certificated security is delivered to  
4 the purchaser, and:

5 a. the certificate is indorsed to the purchaser or in  
6 blank by an effective indorsement; or

7 b. the certificate is registered in the name of the  
8 purchaser, upon original issue or registration of transfer by  
9 the issuer.

10 3. A purchaser has "control" of an uncertificated security  
11 if:

12 a. the uncertificated security is delivered to the  
13 purchaser; or

14 b. the issuer has agreed that it will comply with  
15 instructions originated by the purchaser without further  
16 consent by the registered owner.

17 4. A purchaser has "control" of a security entitlement if:

18 a. the purchaser becomes the entitlement holder; or

19 b. the securities intermediary has agreed that it will  
20 comply with entitlement orders originated by the purchaser  
21 without further consent by the entitlement holder.

22 5. If an interest in a security entitlement is granted by  
23 the entitlement holder to the entitlement holder's own  
24 securities intermediary, the securities intermediary has  
25 control.

26 6. A purchaser who has satisfied the requirements of  
27 subsection 3, paragraph "b", or subsection 4, paragraph "b",  
28 has control even if the registered owner in the case of  
29 subsection 3, paragraph "b", or the entitlement holder in the  
30 case of subsection 4, paragraph "b", retains the right to make  
31 substitutions for the uncertificated security or security  
32 entitlement, to originate instructions or entitlement orders  
33 to the issuer or securities intermediary, or otherwise to deal  
34 with the uncertificated security or security entitlement.

35 7. An issuer or a securities intermediary may not enter

1 into an agreement of the kind described in subsection 3,  
2 paragraph "b", or subsection 4, paragraph "b", without the  
3 consent of the registered owner or entitlement holder, but an  
4 issuer or a securities intermediary is not required to enter  
5 into such an agreement even though the registered owner or  
6 entitlement holder so directs. An issuer or securities  
7 intermediary that has entered into such an agreement is not  
8 required to confirm the existence of the agreement to another  
9 party unless requested to do so by the registered owner or  
10 entitlement holder.

11 Sec. 10. Section 554.8107, Code 1995, is amended by  
12 striking the section and inserting in lieu thereof the  
13 following:

14 554.8107 WHETHER INDORSEMENT, INSTRUCTION, OR ENTITLEMENT  
15 ORDER IS EFFECTIVE.

16 1. "Appropriate person" means:

17 a. with respect to an indorsement, the person specified by  
18 a security certificate or by an effective special indorsement  
19 to be entitled to the security;

20 b. with respect to an instruction, the registered owner of  
21 an uncertificated security;

22 c. with respect to an entitlement order, the entitlement  
23 holder;

24 d. if the person designated in paragraph "a", "b", or "c"  
25 is deceased, the designated person's successor taking under  
26 other law or the designated person's personal representative  
27 acting for the estate of the decedent; or

28 e. if the person designated in paragraph "a", "b", or "c"  
29 lacks capacity, the designated person's guardian, conservator,  
30 or other similar representative who has power under other law  
31 to transfer the security or financial asset.

32 2. An indorsement, instruction, or entitlement order is  
33 effective if:

34 a. it is made by the appropriate person;

35 b. it is made by a person who has power under the law of

1 agency to transfer the security or financial asset on behalf  
2 of the appropriate person, including, in the case of an  
3 instruction or entitlement order, a person who has control  
4 under section 554.8106, subsection 3, paragraph "b", or  
5 subsection 4, paragraph "b"; or

6 c. the appropriate person has ratified it or is otherwise  
7 precluded from asserting its ineffectiveness.

8 3. An indorsement, instruction, or entitlement order made  
9 by a representative is effective even if:

10 a. the representative has failed to comply with a  
11 controlling instrument or with the law of the State having  
12 jurisdiction of the representative relationship, including any  
13 law requiring the representative to obtain court approval of  
14 the transaction; or

15 b. the representative's action in making the indorsement,  
16 instruction, or entitlement order or using the proceeds of the  
17 transaction is otherwise a breach of duty.

18 4. If a security is registered in the name of or specially  
19 indorsed to a person described as a representative, or if a  
20 securities account is maintained in the name of a person  
21 described as a representative, an indorsement, instruction, or  
22 entitlement order made by the person is effective even though  
23 the person is no longer serving in the described capacity.

24 5. Effectiveness of an indorsement, instruction, or  
25 entitlement order is determined as of the date the  
26 indorsement, instruction, or entitlement order is made, and an  
27 indorsement, instruction, or entitlement order does not become  
28 ineffective by reason of any later change of circumstances.

29 Sec. 11. Section 554.8108, Code 1995, is amended by  
30 striking the section and inserting in lieu thereof the  
31 following:

32 554.8108 WARRANTIES IN DIRECT HOLDING.

33 1. A person who transfers a certificated security to a  
34 purchaser for value warrants to the purchaser, and an  
35 indorser, if the transfer is by indorsement, warrants to any



1 subsequent purchaser, that:

2 a. the certificate is genuine and has not been materially  
3 altered;

4 b. the transferor or indorser does not know of any fact  
5 that might impair the validity of the security;

6 c. there is no adverse claim to the security;

7 d. the transfer does not violate any restriction on  
8 transfer;

9 e. if the transfer is by indorsement, the indorsement is  
10 made by an appropriate person, or if the indorsement is by an  
11 agent, the agent has actual authority to act on behalf of the  
12 appropriate person; and

13 f. the transfer is otherwise effective and rightful.

14 2. A person who originates an instruction for registration  
15 of transfer of an uncertificated security to a purchaser for  
16 value warrants to the purchaser that:

17 a. the instruction is made by an appropriate person, or if  
18 the instruction is by an agent, the agent has actual authority  
19 to act on behalf of the appropriate person;

20 b. the security is valid;

21 c. there is no adverse claim to the security; and

22 d. at the time the instruction is presented to the issuer:

23 (1) the purchaser will be entitled to the registration of  
24 transfer;

25 (2) the transfer will be registered by the issuer free  
26 from all liens, security interests, restrictions, and claims  
27 other than those specified in the instruction;

28 (3) the transfer will not violate any restriction on  
29 transfer; and

30 (4) the requested transfer will otherwise be effective and  
31 rightful.

32 3. A person who transfers an uncertificated security to a  
33 purchaser for value and does not originate an instruction in  
34 connection with the transfer warrants that:

35 a. the uncertificated security is valid;

1 b. there is no adverse claim to the security;

2 c. the transfer does not violate any restriction on  
3 transfer; and

4 d. the transfer is otherwise effective and rightful.

5 4. A person who indorses a security certificate warrants  
6 to the issuer that:

7 a. there is no adverse claim to the security; and

8 b. the indorsement is effective.

9 5. A person who originates an instruction for registration  
10 of transfer of an uncertificated security warrants to the  
11 issuer that:

12 a. the instruction is effective; and

13 b. at the time the instruction is presented to the issuer  
14 the purchaser will be entitled to the registration of  
15 transfer.

16 6. A person who presents a certificated security for  
17 registration of transfer or for payment or exchange warrants  
18 to the issuer that the person is entitled to the registration,  
19 payment, or exchange, but a purchaser for value and without  
20 notice of adverse claims to whom transfer is registered  
21 warrants only that the person has no knowledge of any  
22 unauthorized signature in a necessary indorsement.

23 7. If a person acts as agent of another in delivering a  
24 certificated security to a purchaser, the identity of the  
25 principal was known to the person to whom the certificate was  
26 delivered, and the certificate delivered by the agent was  
27 received by the agent from the principal or received by the  
28 agent from another person at the direction of the principal,  
29 the person delivering the security certificate warrants only  
30 that the delivering person has authority to act for the  
31 principal and does not know of any adverse claim to the  
32 certificated security.

33 8. A secured party who redelivers a security certificate  
34 received, or after payment and on order of the debtor delivers  
35 the security certificate to another person, makes only the

1 warranties of an agent under subsection 7.

2 9. Except as otherwise provided in subsection 7; a broker  
3 acting for a customer makes to the issuer and a purchaser the  
4 warranties provided in subsections 1 through 6. A broker that  
5 delivers a security certificate to its customer, or causes its  
6 customer to be registered as the owner of an uncertificated  
7 security, makes to the customer the warranties provided in  
8 subsection 1 or 2, and has the rights and privileges of a  
9 purchaser under this section. The warranties of and in favor  
10 of the broker acting as an agent are in addition to applicable  
11 warranties given by and in favor of the customer.

12 Sec. 12. NEW SECTION. 554.8109 WARRANTIES IN INDIRECT  
13 HOLDING.

14 1. A person who originates an entitlement order to a  
15 securities intermediary warrants to the securities  
16 intermediary that:

17 a. the entitlement order is made by an appropriate person,  
18 or if the entitlement order is by an agent, the agent has  
19 actual authority to act on behalf of the appropriate person;  
20 and

21 b. there is no adverse claim to the security entitlement.

22 2. A person who delivers a security certificate to a  
23 securities intermediary for credit to a securities account or  
24 originates an instruction with respect to an uncertificated  
25 security directing that the uncertificated security be  
26 credited to a securities account makes to the securities  
27 intermediary the warranties specified in section 554.8108,  
28 subsection 1 or 2.

29 3. If a securities intermediary delivers a security  
30 certificate to its entitlement holder or causes its  
31 entitlement holder to be registered as the owner of an  
32 uncertificated security, the securities intermediary makes to  
33 the entitlement holder the warranties specified in section  
34 554.8108, subsection 1 or 2.

35 Sec. 13. NEW SECTION. 554.8110 APPLICABILITY -- CHOICE

1 OF LAW.

2 1. The local law of the issuer's jurisdiction, as  
3 specified in subsection 4, governs:

4 a. the validity of a security;

5 b. the rights and duties of the issuer with respect to  
6 registration of transfer;

7 c. the effectiveness of registration of transfer by the  
8 issuer;

9 d. whether the issuer owes any duties to an adverse  
10 claimant to a security; and

11 e. whether an adverse claim can be asserted against a  
12 person to whom transfer of a certificated or uncertificated  
13 security is registered or a person who obtains control of an  
14 uncertificated security.

15 2. The local law of the securities intermediary's  
16 jurisdiction, as specified in subsection 5, governs:

17 a. acquisition of a security entitlement from the  
18 securities intermediary;

19 b. the rights and duties of the securities intermediary  
20 and entitlement holder arising out of a security entitlement;

21 c. whether the securities intermediary owes any duties to  
22 an adverse claimant to a security entitlement; and

23 d. whether an adverse claim can be asserted against a  
24 person who acquires a security entitlement from the securities  
25 intermediary or a person who purchases a security entitlement  
26 or interest therein from an entitlement holder.

27 3. The local law of the jurisdiction in which a security  
28 certificate is located at the time of delivery governs whether  
29 an adverse claim can be asserted against a person to whom the  
30 security certificate is delivered.

31 4. "Issuer's jurisdiction" means the jurisdiction under  
32 which the issuer of the security is organized or, if permitted  
33 by the law of that jurisdiction, the law of another  
34 jurisdiction specified by the issuer. An issuer organized  
35 under the law of this state may specify the law of another

1 jurisdiction as the law governing the matters specified in  
2 subsection 1, paragraphs "b" through "e".

3 5. The following rules determine a "securities  
4 intermediary's jurisdiction" for purposes of this section:

5 a. if an agreement between the securities intermediary and  
6 its entitlement holder specifies that it is governed by the  
7 law of a particular jurisdiction, that jurisdiction is the  
8 securities intermediary's jurisdiction.

9 b. if an agreement between the securities intermediary and  
10 its entitlement holder does not specify the governing law as  
11 provided in paragraph "a", but expressly specifies that the  
12 securities account is maintained at an office in a particular  
13 jurisdiction, that jurisdiction is the securities  
14 intermediary's jurisdiction.

15 c. if an agreement between the securities intermediary and  
16 its entitlement holder does not specify a jurisdiction as  
17 provided in paragraph "a" or "b", the securities  
18 intermediary's jurisdiction is the jurisdiction in which is  
19 located the office identified in an account statement as the  
20 office serving the entitlement holder's account.

21 d. if an agreement between the securities intermediary and  
22 its entitlement holder does not specify a jurisdiction as  
23 provided in paragraph "a" or "b" and an account statement does  
24 not identify an office serving the entitlement holder's  
25 account as provided in paragraph "c", the securities  
26 intermediary's jurisdiction is the jurisdiction in which is  
27 located the chief executive office of the securities  
28 intermediary.

29 6. A securities intermediary's jurisdiction is not  
30 determined by the physical location of certificates  
31 representing financial assets, or by the jurisdiction in which  
32 is organized the issuer of the financial asset with respect to  
33 which an entitlement holder has a security entitlement, or by  
34 the location of facilities for data processing or other record  
35 keeping concerning the account.

1     Sec. 14. NEW SECTION. 554.8111 CLEARING CORPORATION  
2 RULES.

3     A rule adopted by a clearing corporation governing rights  
4 and obligations among the clearing corporation and its  
5 participants in the clearing corporation is effective even if  
6 the rule conflicts with this Article and affects another party  
7 who does not consent to the rule.

8     Sec. 15. NEW SECTION. 554.8112 CREDITOR'S LEGAL PROCESS.

9     1. The interest of a debtor in a certificated security may  
10 be reached by a creditor only by actual seizure of the  
11 security certificate by the officer making the attachment or  
12 levy, except as otherwise provided in subsection 4. However,  
13 a certificated security for which the certificate has been  
14 surrendered to the issuer may be reached by a creditor by  
15 legal process upon the issuer.

16     2. The interest of a debtor in an uncertificated security  
17 may be reached by a creditor only by legal process upon the  
18 issuer at its chief executive office in the United States,  
19 except as otherwise provided in subsection 4.

20     3. The interest of a debtor in a security entitlement may  
21 be reached by a creditor only by legal process upon the  
22 securities intermediary with whom the debtor's securities  
23 account is maintained, except as otherwise provided in  
24 subsection 4.

25     4 The interest of a debtor in a certificated security for  
26 which the certificate is in the possession of a secured party,  
27 or in an uncertificated security registered in the name of a  
28 secured party, or a security entitlement maintained in the  
29 name of a secured party, may be reached by a creditor by legal  
30 process upon the secured party.

31     5. A creditor whose debtor is the owner of a certificated  
32 security, uncertificated security, or security entitlement is  
33 entitled to aid from a court of competent jurisdiction, by  
34 injunction or otherwise, in reaching the certificated  
35 security, uncertificated security, or security entitlement or

1 in satisfying the claim by means allowed at law or in equity  
2 in regard to property that cannot readily be reached by other  
3 legal process.

4 Sec. 16. NEW SECTION. 554.8113 STATUTE OF FRAUDS  
5 INAPPLICABLE.

6 A contract or modification of a contract for the sale or  
7 purchase of a security is enforceable whether or not there is  
8 a writing signed or record authenticated by a party against  
9 whom enforcement is sought, even if the contract or  
10 modification is not capable of performance within one year of  
11 its making.

12 Sec. 17. NEW SECTION. 554.8114 EVIDENTIARY RULES  
13 CONCERNING CERTIFICATED SECURITIES.

14 The following rules apply in an action on a certificated  
15 security against the issuer:

16 1. Unless specifically denied in the pleadings, each  
17 signature on a security certificate or in a necessary  
18 indorsement is admitted.

19 2. If the effectiveness of a signature is put in issue,  
20 the burden of establishing effectiveness is on the party  
21 claiming under the signature, but the signature is presumed to  
22 be genuine or authorized.

23 3. If signatures on a security certificate are admitted or  
24 established, production of the certificate entitles a holder  
25 to recover on it unless the defendant establishes a defense or  
26 a defect going to the validity of the security.

27 4. If it is shown that a defense or defect exists, the  
28 plaintiff has the burden of establishing that the plaintiff or  
29 some person under whom the plaintiff claims is a person  
30 against whom the defense or defect cannot be asserted.

31 Sec. 18. NEW SECTION. 554.8115 SECURITIES INTERMEDIARY  
32 AND OTHERS NOT LIABLE TO ADVERSE CLAIMANT.

33 A securities intermediary that has transferred a financial  
34 asset pursuant to an effective entitlement order, or a broker  
35 or other agent or bailee that has dealt with a financial asset

1 at the direction of its customer or principal, is not liable  
2 to a person having an adverse claim to the financial asset,  
3 unless the securities intermediary, or broker or other agent  
4 or bailee:

- 5 1. took the action after it had been served with an  
6 injunction, restraining order, or other legal process  
7 enjoining it from doing so, issued by a court of competent  
8 jurisdiction, and had a reasonable opportunity to act on the  
9 injunction, restraining order, or other legal process; or  
10 2. acted in collusion with the wrongdoer in violating the  
11 rights of the adverse claimant; or  
12 3. in the case of a security certificate that has been  
13 stolen, acted with notice of the adverse claim.

14 PART 2

15 ISSUE AND ISSUER

16 Sec. 19. Section 554.8201, Code 1995, is amended to read  
17 as follows:

18 554.8201 "ISSUER".

19 1. With respect to ~~obligations~~ an obligation on or  
20 ~~defenses~~ a defense to a security, an "issuer" includes a  
21 person who that:

22 a. places or authorizes the placing of ~~that-person's~~ its  
23 name on a ~~certificated~~ security ~~(otherwise~~ certificate, other  
24 than as authenticating trustee, registrar, transfer agent, or  
25 the like), ~~to evidence that-it-represents~~ a share,  
26 participation, or other interest in ~~that-person's~~ its property  
27 or in an enterprise, or to evidence that-person's its duty to  
28 perform an obligation represented by the ~~certificated-security~~  
29 certificate;

30 b. creates ~~shares~~ a share, ~~participations~~ participation or  
31 other ~~interests~~ interest in the ~~person's~~ its property or in an  
32 enterprise, or undertakes obligations an obligation, which  
33 ~~shares, participations, interests, or obligations are~~ that is  
34 an uncertificated securities security;

35 c. directly or indirectly creates a fractional interests



1 interest in ~~that person's~~ its rights or property, which if the  
 2 ~~fractional interests are~~ interest is represented by  
 3 ~~certificated securities~~ security certificate; or

4 d. becomes responsible for, or in place of, any other  
 5 another person described as an issuer in this section.

6 2. With respect to ~~obligations~~ an obligation on or  
 7 ~~defenses~~ defense to a security, a guarantor is an issuer to  
 8 the extent of ~~the guarantor's guaranty~~ its guaranty, whether  
 9 or not ~~the guarantor's~~ its guaranty, whether or not its  
 10 obligation is noted on a ~~certificated security or on~~  
 11 ~~statements of uncertificated securities sent pursuant to~~  
 12 ~~section 554.8408~~ certificate.

13 3. With respect to a registration of a transfer, pledge  
 14 ~~or release (Part 4 of this Article)~~, "issuer" issuer means a  
 15 person on whose behalf transfer books are maintained.

16 Sec. 20. Section 554.8202, Code 1995, is amended to read  
 17 as follows:

18 554.8202 ISSUER'S RESPONSIBILITY AND DEFENSES -- NOTICE OF  
 19 DEFECT OR DEFENSE.

20 1. Even against a purchaser for value and without notice,  
 21 the terms of a certificated security include:

22 ~~a--if the security is certificated, those stated on the~~  
 23 ~~security;~~

24 ~~b--if the security is uncertificated, those contained in~~  
 25 ~~the initial transaction statement sent to such purchaser, or~~  
 26 ~~if the purchaser's interest is transferred to the purchaser~~  
 27 ~~other than by registration of transfer, pledge, or release,~~  
 28 ~~the initial transaction statement sent to the registered owner~~  
 29 ~~or registered pledgee; and~~

30 ~~c--those made part of the security by reference, on the~~  
 31 ~~certificated security or in the initial transaction statement,~~  
 32 terms stated on the certificate and terms made part of the  
 33 security by reference on the certificate to another  
 34 instrument, indenture, or document or to a constitution,  
 35 statute, ordinance, rule, regulation, order, or the like, to

1 the extent that the terms referred to do not conflict with the  
2 terms stated on the ~~certificated-security-or-contained-in-the~~  
3 ~~initial-statement~~ certificate. A reference under this  
4 paragraph subsection does not of itself charge a purchaser for  
5 value with notice of a defect going to the validity of the  
6 security, even ~~though-the-certificated-security-or-statement~~  
7 if the certificate expressly states that a person accepting it  
8 admits notice. The terms of an uncertificated security,  
9 include those stated in any instrument, indenture, or document  
10 or in a constitution, statute, ordinance, rule, regulation,  
11 order, or the like pursuant to which the security is issued.

12 2. The following rules apply if an issuer asserts that a  
13 security is not valid:

14 a. A ~~certificated security in-the-hands-of-a-purchaser-for~~  
15 ~~value-or-an-uncertificated-security-as-to-which-an-initial~~  
16 ~~transaction-statement-has-been-sent-to-a-purchaser-for-value,~~  
17 other than a ~~security~~ one issued by a government or  
18 governmental subdivision, agency, or unit instrumentality,  
19 even though issued with a defect going to its validity, is  
20 valid ~~with-respect-to-the~~ in the hands of a purchaser if-the  
21 purchaser-is for value and without notice of the particular  
22 defect unless the defect involves a violation of a  
23 constitutional ~~provisions, in-which~~ provision. In that case,  
24 the security is valid ~~with-respect-to-a-subsequent~~ in the  
25 hands of a purchaser for value and without notice of the  
26 defect, other than one who takes by original issue.

27 b. This-subsection Paragraph "a" applies to an issuer that  
28 is a government or governmental subdivision, agency, or unit  
29 instrumentality only if either there has been substantial  
30 compliance with the legal requirements governing the issue or  
31 the issuer has received a substantial consideration for the  
32 issue as a whole or for the particular security and a stated  
33 purpose of the issue is one for which the issuer has power to  
34 borrow money or issue the security.

35 3. Except as otherwise provided in ~~the-case-of-certain~~

1 ~~unauthorized-signatures-(section 554.8205)~~, lack of  
 2 genuineness of a certificated security ~~or-an-initial~~  
 3 ~~transaction-statement~~ is a complete defense, even against a  
 4 purchaser for value and without notice.

5 4. All other defenses of the issuer of a ~~certificated-or~~  
 6 ~~uncertificated~~ security, including nondelivery and conditional  
 7 delivery of a certificated security, are ineffective against a  
 8 purchaser for value who has taken the certificated security  
 9 without notice of the particular defense.

10 5. ~~Nothing-in-this~~ This section shall-be-construed-to does  
 11 not affect the right of a party to cancel a contract for a  
 12 security "when, as and if issued" or a "when distributed"  
 13 ~~contract-to-cancel-the-contract~~ in the event of a material  
 14 change in the character of the security that is the subject of  
 15 the contract or in the plan or arrangement pursuant to which  
 16 the security is to be issued or distributed.

17 6. If a security is held by a securities intermediary  
 18 against whom an entitlement holder has a security entitlement  
 19 with respect to the security, the issuer may not assert any  
 20 defense that the issuer could not assert if the entitlement  
 21 holder held the security director.

22 Sec. 21. Section 554.8203, Code 1995, is amended to read  
 23 as follows:

24 554.8203 STALENESS AS NOTICE OF DEFECTS DEFECT OR DEFENSES  
 25 DEFENSE.

26 1. After an act or event, other than a call that has been  
 27 revoked, creating a right to immediate performance of the  
 28 principal obligation represented by a certificated security or  
 29 ~~that-sets~~ setting a date on or after which the security is to  
 30 be presented or surrendered for redemption or exchange, a  
 31 purchaser is charged with notice of any defect in its issue or  
 32 defense of the issuer, if the act or event:

33 a. 1. ~~the-act-or-event-is-one-requiring~~ requires the  
 34 payment of money, the delivery of a certificated securities  
 35 security, the registration of transfer of an uncertificated

1 ~~securities~~ security, or any of these ~~them~~ on presentation or  
2 surrender of the ~~certificated~~ security certificate, the funds  
3 ~~money~~ or ~~securities-are~~ security is available on the date set  
4 for payment or exchange, and the purchaser takes the security  
5 more than one year after that date; and or

6 ~~b- 2. the-act-or-event~~ is not covered by paragraph-"a"  
7 subsection 1 and the purchaser takes the security more than  
8 two years after the date set for surrender or presentation or  
9 the date on which performance became due.

10 ~~2.--A-call-that-has-been-revoked-is-not-within-subsection~~  
11 ~~1-~~

12 Sec. 22. Section 554.8204, Code 1995, is amended to read  
13 as follows:

14 554.8204 EFFECT OF ISSUER'S RESTRICTIONS RESTRICTION ON  
15 TRANSFER.

16 A restriction on transfer of a security imposed by the  
17 issuer, even though if otherwise lawful, is ineffective  
18 against any a person without ~~actual~~ knowledge of it the  
19 restriction unless:

20 ~~a- 1.~~ the security is certificated and the restriction is  
21 noted conspicuously ~~thereon~~ on the security certificate; or

22 ~~b- 2.~~ the security is uncertificated and ~~a-notation-of-the~~  
23 ~~restriction-is-contained-in-the-initial-transaction-statement~~  
24 ~~sent-to-the-person-or,-if-the-person's-interest-is-transferred~~  
25 ~~to-the-person-other-than-by-registration-of-transfer,-pledge,-~~  
26 ~~or-release,-the-initial-transaction-statement-sent-to-the~~  
27 ~~registered-owner-or-the-registered-pledgee~~ the registered  
28 owner has been notified of the restriction.

29 Sec. 23. Section 554.8205, Code 1995, is amended to read  
30 as follows:

31 554.8205 EFFECT OF UNAUTHORIZED SIGNATURE ON ~~CERTIFICATED~~  
32 ~~SECURITY OR-INITIAL-TRANSACTION-STATEMENT~~ CERTIFICATE.

33 An unauthorized signature placed on a ~~certificated~~ security  
34 ~~prior-to~~ certificate or in the course of issue ~~or-placed-on-an~~  
35 ~~initial-transaction-statement~~ is ineffective, but the

1 signature is effective in favor of a purchaser for value of  
2 the certificated security ~~or-a if the purchaser for value of~~  
3 ~~an uncertificated security to whom such initial transaction~~  
4 ~~statement has been sent~~, if the purchaser is without notice of  
5 the lack of authority and ~~if~~ the signing has been done by:

6 a- 1. an authenticating trustee, registrar, transfer agent  
7 or other person entrusted by the issuer with the signing of  
8 the security, ~~of similar securities, or of initial transaction~~  
9 ~~statements~~ certificate or of similar security certificates, or  
10 the immediate preparation for signing of any of them; or

11 b- 2. an employee of the issuer, or of any of the  
12 foregoing persons listed in paragraph "a", entrusted with  
13 responsible handling of the security ~~or initial transaction~~  
14 ~~statement~~ certificate.

15 Sec. 24. Section 554.8206, Code 1995, is amended to read  
16 as follows:

17 554.8206 COMPLETION OR ALTERATION OF CERTIFICATED SECURITY  
18 OR-INITIAL-TRANSACTION-STATEMENT CERTIFICATE.

19 1. If a certificated security certificate contains the  
20 signatures necessary to its issue or transfer but is  
21 incomplete in any other respect:

22 a. any person may complete it by filling in the blanks as  
23 authorized; and

24 b. even though if the blanks are incorrectly filled in,  
25 the security certificate as completed is enforceable by a  
26 purchaser who took it for value and without notice of the  
27 incorrectness.

28 2. A complete certificated security certificate that has  
29 been improperly altered, even though if fraudulently, remains  
30 enforceable, but only according to its original terms.

31 ~~3.---If-an-initial-transaction-statement-contains-the~~  
32 ~~signatures-necessary-to-its-validity,-but-is-incomplete-in-any~~  
33 ~~other-respect:~~

34 ~~a.---any-person-may-complete-it-by-filling-in-the-blanks-as~~  
35 ~~authorized,-and~~

1 ~~b.---even-though-the-blanks-are-incorrectly-filled-in, the~~  
2 ~~statement-as-completed-is-effective-in-favor-of-the-person-to~~  
3 ~~whom-it-is-sent-if-the-person-purchased-the-security-referred~~  
4 ~~to-therein-for-value-and-without-notice-of-the-incorrectness.~~

5 ~~4.---A-complete-initial-transaction-statement-that-has-been~~  
6 ~~improperly-altered, even-though-fraudulently, is-effective-in~~  
7 ~~favor-of-a-purchaser-to-whom-it-has-been-sent, but-only~~  
8 ~~according-to-its-original-terms.~~

9 Sec. 25. Section 554.8207, Code 1995, is amended to read  
10 as follows:

11 554.8207 RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO  
12 REGISTERED OWNERS.

13 1. ~~Prior to~~ Before due presentment for registration of  
14 transfer of a certificated security in registered form, or of  
15 an instruction requesting registration of transfer of an  
16 uncertificated security, the issuer or indenture trustee may  
17 treat the registered owner as the person exclusively entitled  
18 to vote, to receive notifications, and otherwise to exercise  
19 all the rights and powers of an owner.

20 ~~2.---Subject-to-the-provisions-of-subsections-3, 4, and 6,~~  
21 ~~the-issuer-or-indenture-trustee-may-treat-the-registered-owner~~  
22 ~~of-an-uncertificated-security-as-the-person-exclusively~~  
23 ~~entitled-to-vote, to-receive-notifications, and-otherwise-to~~  
24 ~~exercise-all-the-rights-and-powers-of-an-owner.~~

25 ~~3. 2. The~~ This Article does not affect the liability of  
26 the registered owner of an-uncertificated a security that-is  
27 subject-to-a-registered-pledge-is-not-entitled-to-registration  
28 of-transfer-prior-to-the-due-presentment-to-the-issuer-of-a  
29 release-instruction for a call, assessment, or the like. The  
30 exercise-of-conversion-rights-with-respect-to-a-convertible  
31 uncertificated-security-is-a-transfer-within-the-meaning-of  
32 this-section.

33 ~~4.---Upon-due-presentment-of-a-transfer-instruction-from-the~~  
34 ~~registered-pledgee-of-an-uncertificated-security, the-issuer~~  
35 ~~shall:~~

1 a.---register-the-transfer-of-the-security-to-the-new-owner  
2 free-of-pledge,if-the-instruction-specifies-a-new-owner-(who  
3 may-be-the-registered-pledgee)-and-does-not-specify-a-pledgee;  
4 b.---register-the-transfer-of-the-security-to-the-new-owner  
5 subject-to-the-interest-of-the-existing-pledgee,if-the  
6 instruction-specifies-a-new-owner-and-the-existing-pledgee,or  
7 c.---register-the-release-of-the-security-from-the-existing  
8 pledge-and-register-the-pledge-of-the-security-to-the-other  
9 pledgee,if-the-instruction-specifies-the-existing-owner-and  
10 another-pledgee.

11 5.---Continuity-of-perfection-of-a-security-interest-is-not  
12 broken-by-registration-of-transfer-under-subsection-(4)(b)-or  
13 by-registration-of-release-and-pledge-under-subsection-(4)(c),  
14 if-the-security-interest-is-assigned.

15 6.---If-an-uncertificated-security-is-subject-to-a  
16 registered-pledge:

17 a.---any-uncertificated-securities-issued-in-exchange-for-or  
18 distributed-with-respect-to-the-pledged-security-shall-be  
19 registered-subject-to-the-pledge;

20 b.---any-certificated-securities-issued-in-exchange-for-or  
21 distributed-with-respect-to-the-pledged-security-shall-be  
22 delivered-to-the-registered-pledgee;-and

23 c.---any-money-paid-in-exchange-for-or-in-redemption-of-part  
24 or-all-of-the-security-shall-be-paid-to-the-registered  
25 pledgee.

26 7.---Nothing-in-this-Article-shall-be-construed-to-affect  
27 the-liability-of-the-registered-owner-of-a-security-for-calls,  
28 assessments,-or-the-like.

29 Sec. 26. Section 554.8208, Code 1995, is amended to read  
30 as follows:

31 554.8208 EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE,  
32 REGISTRAR, OR TRANSFER AGENT.

33 1. A person placing-that-person's-signature-upon signing a  
34 certificated security or-an-initial-transaction-statement  
35 certificate, as authenticating trustee, registrar, transfer

1 agent, or the like, warrants to a purchaser for value of the  
2 certificated security, ~~or a purchaser for value of an~~  
3 ~~uncertificated security to whom the initial transaction~~  
4 ~~statement has been sent~~, if the purchaser is without notice of  
5 the particular defect, that:

6 a. the ~~certificated security or initial transaction~~  
7 ~~statement~~ certificate is genuine;

8 b. that the person's own participation in the issue or  
9 ~~registration of transfer, pledge, or release~~ of the security  
10 is within that the person's capacity and within the scope of  
11 the authority received by that the person from the issuer; and

12 c. that the person has reasonable grounds to believe that  
13 the certificated security is in the form and within the amount  
14 the issuer is authorized to issue.

15 2. Unless otherwise agreed, a person ~~by so placing that~~  
16 ~~person's signature signing under subsection 1~~ does not assume  
17 responsibility for the validity of the security in other  
18 respects.

19 Sec. 27. NEW SECTION. 554.8209 ISSUER'S LIEN.

20 A lien in favor of an issuer upon a certificated security  
21 is valid against a purchaser only if the right of the issuer  
22 to the lien is noted conspicuously on the security  
23 certificate.

24 Sec. 28. NEW SECTION. 554.8210 OVERISSUE.

25 1. In this section, "overissue" means the issue of  
26 securities in excess of the amount the issuer has corporate  
27 power to issue, but an overissue does not occur if appropriate  
28 action has cured the overissue.

29 2. Except as otherwise provided in subsections 3 and 4,  
30 the provisions of this Article which validate a security or  
31 compel its issue or reissue do not apply to the extent that  
32 validation, issue, or reissue would result in overissue.

33 3. If an identical security not constituting an overissue  
34 is reasonably available for purchase, a person entitled to  
35 issue or validation may compel the issuer to purchase the



1 security and deliver it if certificated or register its  
2 transfer if uncertificated, against surrender of any security  
3 certificate the person holds.

4 4. If a security is not reasonably available for purchase,  
5 a person entitled to issue or validation may recover from the  
6 issuer the price the person or the last purchaser for value  
7 paid for it with interest from the date of the person's  
8 demand.

9 PART 3

10 TRANSFER OF CERTIFICATED

11 AND UNCERTIFICATED SECURITIES

12 Sec. 29. Section 554.8301, Code 1995, is amended by  
13 striking the section and inserting in lieu thereof the  
14 following:

15 554.8301 DELIVERY.

16 1. Delivery of a certificated security to a purchaser  
17 occurs when:

18 a. the purchaser acquires possession of the security  
19 certificate;

20 b. another person, other than a securities intermediary,  
21 either acquires possession of the security certificate on  
22 behalf of the purchaser or, having previously acquired  
23 possession of the certificate, acknowledges that it holds for  
24 the purchaser; or

25 c. a securities intermediary acting on behalf of the  
26 purchaser acquires possession of the security certificate,  
27 only if the certificate is in registered form and has been  
28 specially indorsed to the purchaser by an effective  
29 indorsement.

30 2. Delivery of an uncertificated security to a purchaser  
31 occurs when:

32 a. the issuer registers the purchaser as the registered  
33 owner, upon original issue or registration of transfer; or

34 b. another person, other than a securities intermediary,  
35 either becomes the registered owner of the uncertificated

1 security on behalf of the purchaser or, having previously  
2 become the registered owner, acknowledges that it holds for  
3 the purchaser.

4 Sec. 30. Section 554.8302, Code 1995, is amended by  
5 striking the section and inserting in lieu thereof the  
6 following:

7 554.8302 RIGHTS OF PURCHASER.

8 1. Except as otherwise provided in subsections 2 and 3,  
9 upon delivery of a certificated or uncertificated security to  
10 a purchaser, the purchaser acquires all rights in the security  
11 that the transferor had or had power to transfer.

12 2. A purchaser of a limited interest acquires rights only  
13 to the extent of the interest purchased.

14 3. A purchaser of a certificated security who as a  
15 previous holder had notice of an adverse claim does not  
16 improve its position by taking from a protected purchaser.

17 Sec. 31. Section 554.8303, Code 1995, is amended by  
18 striking the section and inserting in lieu thereof the  
19 following:

20 554.8303 PROTECTED PURCHASER.

21 1. "Protected purchaser" means a purchaser of a  
22 certificated or uncertificated security, or of an interest  
23 therein, who:

24 a. gives value;

25 b. does not have notice of any adverse claim to the  
26 security; and

27 c. obtains control of the certificated or uncertificated  
28 security.

29 2. In addition to acquiring the rights of a purchaser, a  
30 protected purchaser also acquires its interest in the security  
31 free of any adverse claim.

32 Sec. 32. Section 554.8304, Code 1995, is amended by  
33 striking the section and inserting in lieu thereof the  
34 following:

35 554.8304 INDORSEMENT.

1 1. An indorsement may be in blank or special. An  
2 indorsement in blank includes an indorsement to bearer. A  
3 special indorsement specifies to whom a security is to be  
4 transferred or who has power to transfer it. A holder may  
5 convert a blank indorsement to a special indorsement.

6 2. An indorsement purporting to be only of part of a  
7 security certificate representing units intended by the issuer  
8 to be separately transferable is effective to the extent of  
9 the indorsement.

10 3. An indorsement, whether special or in blank, does not  
11 constitute a transfer until delivery of the certificate on  
12 which it appears or, if the indorsement is on a separate  
13 document, until delivery of both the document and the  
14 certificate.

15 4. If a security certificate in registered form has been  
16 delivered to a purchaser without a necessary indorsement, the  
17 purchaser may become a protected purchaser only when the  
18 indorsement is supplied. However, against a transferor, a  
19 transfer is complete upon delivery and the purchaser has a  
20 specifically enforceable right to have any necessary  
21 indorsement supplied.

22 5. An indorsement of a security certificate in bearer form  
23 may give notice of an adverse claim to the certificate, but it  
24 does not otherwise affect a right to registration that the  
25 holder possesses.

26 6. Unless otherwise agreed, a person making an indorsement  
27 assumes only the obligations provided in section 554.8108 and  
28 not an obligation that the security will be honored by the  
29 issuer.

30 Sec. 33. Section 554.8305, Code 1995, is amended by  
31 striking the section and inserting in lieu thereof the  
32 following:

33 554.8305 INSTRUCTION.

34 1. If an instruction has been originated by an appropriate  
35 person but is incomplete in any other respect, any person may

1 complete it as authorized and the issuer may rely on it as  
2 completed, even though it has been completed incorrectly.

3 2. Unless otherwise agreed, a person initiating an  
4 instruction assumes only the obligations imposed by section  
5 554.8108 and not an obligation that the security will be  
6 honored by the issuer.

7 Sec. 34. Section 554.8306, Code 1995, is amended by  
8 striking the section and inserting in lieu thereof the  
9 following:

10 554.8306 EFFECT OF GUARANTEEING SIGNATURE, INDORSEMENT, OR  
11 INSTRUCTION.

12 1. A person who guarantees a signature of an indorser of a  
13 security certificate warrants that at the time of signing:

14 a. the signature was genuine;

15 b. the signer was an appropriate person to indorse, or if  
16 the signature is by an agent, the agent had actual authority  
17 to act on behalf of the appropriate person; and

18 c. the signer had legal capacity to sign.

19 2. A person who guarantees a signature of the originator  
20 of an instruction warrants that at the time of signing:

21 a. the signature was genuine;

22 b. the signer was an appropriate person to originate the  
23 instruction, or if the signature is by an agent, the agent had  
24 actual authority to act on behalf of the appropriate person,  
25 if the person specified in the instruction as the registered  
26 owner was, in fact, the registered owner, as to which fact the  
27 signature guarantor does not make a warranty; and

28 c. the signer had legal capacity to sign.

29 3. A person who specially guarantees the signature of an  
30 originator of an instruction makes the warranties of a  
31 signature guarantor under subsection 2 and also warrants that  
32 at the time the instruction is presented to the issuer:

33 a. the person specified in the instruction as the  
34 registered owner of the uncertificated security will be the  
35 registered owner; and

1 b. the transfer of the uncertificated security requested  
2 in the instruction will be registered by the issuer free from  
3 all liens, security interests, restrictions, and claims other  
4 than those specified in the instruction.

5 4. A guarantor under subsections 1 and 2 or a special  
6 guarantor under subsection 3 does not otherwise warrant the  
7 rightfulness of the transfer.

8 5. A person who guarantees an indorsement of a security  
9 certificate makes the warranties of a signature guarantor  
10 under subsection 1 and also warrants the rightfulness of the  
11 transfer in all respects.

12 6. A person who guarantees an instruction requesting the  
13 transfer of an uncertificated security makes the warranties of  
14 a special signature guarantor under subsection 3 and also  
15 warrants the rightfulness of the transfer in all respects.

16 7. An issuer may not require a special guaranty of  
17 signature, a guaranty of indorsement, or a guaranty of  
18 instruction as a condition to registration of transfer.

19 8. The warranties under this section are made to a person  
20 taking or dealing with the security in reliance on the  
21 guaranty, and the guarantor is liable to the person for loss  
22 resulting from their breach. An indorser or originator of an  
23 instruction whose signature, indorsement, or instruction has  
24 been guaranteed is liable to a guarantor for any loss suffered  
25 by the guarantor as a result of breach of the warranties of  
26 the guarantor.

27 Sec. 35. Section 554.8307, Code 1995, is amended by  
28 striking the section and inserting in lieu thereof the  
29 following:

30 554.8307 PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION  
31 OF TRANSFER.

32 Unless otherwise agreed, the transferor of a security on  
33 due demand shall supply the purchaser with proof of authority  
34 to transfer or with any other requisite necessary to obtain  
35 registration of the transfer of the security, but if the

1 transfer is not for value, a transferor need not comply unless  
2 the purchaser pays the necessary expenses. If the transferor  
3 fails within a reasonable time to comply with the demand, the  
4 purchaser may reject or rescind the transfer.

5 PART 4

6 REGISTRATION

7 Sec. 36. Section 554.8401, Code 1995, is amended to read  
8 as follows:

9 554.8401 DUTY OF ISSUER TO REGISTER TRANSFER~~7~~-PLEDGE~~7~~-OR  
10 RELEASE.

11 1. If a certificated security in registered form is  
12 presented to the an issuer with a request to register transfer  
13 or an instruction is presented to the an issuer with a request  
14 to register transfer, ~~pledge7-or-release~~ the issuer shall  
15 register the transfer~~7~~-pledge~~7~~-or-release as requested if:

16 a. ~~the-security-is-endorsed-or-the-instruction-was~~  
17 ~~originated-by-the-appropriate-person-or-persons-(section~~  
18 ~~554-8308)~~ under the terms of the security by the person  
19 seeking registration of transfer is eligible to have the  
20 security registered in its name;

21 b. the indorsement or instruction is made by the  
22 appropriate person or by an agent who has actual authority to  
23 act on behalf of the appropriate person;

24 b. c. reasonable assurance is given that these  
25 endorsements the indorsement or instructions-are instruction  
26 is genuine and effective authorized (section 554-8402  
27 554.8403);

28 c. ~~---the-issuer-has-no-duty-as-to-adverse-claims-or-has~~  
29 ~~discharged-the-duty-(section-554-8403);~~

30 d. any applicable law relating to the collection of taxes  
31 has been complied with; and

32 e. ~~the transfer7-pledge7-or-release-is-in-fact-rightful-or~~  
33 ~~is-to-a-bona-fide-purchaser~~ does not violate any restriction  
34 on transfer imposed by the issuer in accordance with section  
35 554.8204.

1 f. a demand that the issuer not register transfer has not  
2 become effective under section 554.8403, or the issuer has  
3 complied with section 554.8403, subsection 2, but no legal  
4 process or indemnity bond is obtained as provided in section  
5 554.8403, subsection 4; and

6 g. the transfer is in fact rightful or is to a protected  
7 purchaser.

8 2. If an issuer is under a duty to register a transfer,  
9 ~~pledge, or release~~ of a security, the issuer is also liable to  
10 the a person presenting a certificated security or an  
11 instruction for registration or ~~that~~ to the person's principal  
12 for loss resulting from ~~any~~ unreasonable delay in registration  
13 or ~~from~~ failure or refusal to register the transfer, ~~pledge,~~  
14 ~~or release.~~

15 Sec. 37. Section 554.8402, Code 1995, is amended to read  
16 as follows:

17 554.8402 ASSURANCE THAT ENDORSEMENTS-AND-INSTRUCTIONS-ARE  
18 INDORSEMENT OR INSTRUCTION IS EFFECTIVE.

19 1. ~~The~~ An issuer may require the following assurance that  
20 each necessary ~~endorsement-of-a-certificated-security~~  
21 indorsement or each instruction (~~section-554-8308~~) is genuine  
22 and effective authorized:

23 a. in all cases, a guarantee of the signature (~~section~~  
24 ~~554-8312, subsection 1 or 2~~) of the person ~~endorsing-a~~  
25 ~~certificated-security~~ making an indorsement or originating an  
26 instruction including, in the case of an instruction, a  
27 ~~warranty-of-the-taxpayer-identification-number-or, in the~~  
28 ~~absence thereof, other~~ reasonable assurance of identity;

29 b. if the endorsement is made or the instruction is  
30 originated by an agent, appropriate assurance of actual  
31 authority to sign;

32 c. if the endorsement is made or the instruction is  
33 originated by a fiduciary, pursuant to section 554.8107,  
34 subsection 1, paragraph "d" or subsection 1, paragraph "e",  
35 appropriate evidence of appointment or incumbency;

1 d. if there is more than one fiduciary, reasonable  
2 assurance that all who are required to sign have done so; and

3 e. if the ~~endorsement~~ indorsement is made or the  
4 instruction is originated by a person not covered by ~~any-of~~  
5 ~~the-foregoing~~ another provision of this subsection, assurance  
6 appropriate to the case corresponding as nearly as may be to  
7 the ~~foregoing~~ provisions of this subsection.

8 2. An issuer may elect to require reasonable assurance  
9 beyond that specified in this section.

10 3. In this section:

11 ~~2-~~ a. A-"guarantee "Guarantee of the signature" in  
12 ~~subsection-1~~ means a guarantee signed by or on behalf of a  
13 person reasonably believed by the issuer to be responsible.  
14 ~~The~~ An issuer may adopt standards with respect to  
15 responsibility if they are not manifestly unreasonable.

16 ~~3-~~ b. "Appropriate evidence of appointment or incumbency"  
17 ~~in-subsection-1~~ means

18 a- (1) in the case of a fiduciary appointed or qualified  
19 by a court, a certificate issued by or under the direction or  
20 supervision of ~~that~~ the court or an officer ~~of-that-court~~  
21 thereof and dated within ~~one-hundred-eighty~~ sixty days before  
22 the date of presentation for transfer, ~~pledge, or release;~~ or

23 b- (2) in any other case, a copy of a document showing the  
24 appointment or a certificate issued by or on behalf of a  
25 person reasonably believed by the an issuer to be responsible  
26 or, in the absence of that document or certificate, other  
27 evidence the issuer reasonably ~~deemed-by-the-issuer-to-be~~  
28 considers appropriate. ~~The-issuer-may-adopt-standards-with~~  
29 ~~respect-to-the-evidence-if-they-are-not-manifestly~~  
30 ~~unreasonable.--The-issuer-is-not-charged-with-notice-of-the~~  
31 ~~contents-of-any-document-obtained-pursuant-to-this-paragraph~~  
32 ~~"b"-except-to-the-extent-that-the-contents-relate-directly-to~~  
33 ~~the-appointment-or-incumbency.~~

34 ~~4.--The-issuer-may-elect-to-require-reasonable-assurance~~  
35 ~~beyond-that-specified-in-this-section, but-if-it-does-so-and,~~



~~1 for a purpose other than that specified in subsection 3-"b",  
2 both requires and obtains a copy of a will, trust, indenture,  
3 articles of copartnership, bylaws, or other controlling  
4 instrument, it is charged with notice of all matters contained  
5 therein affecting the transfer, pledge, or release:~~

6 Sec. 38. Section 554.8403, Code 1995, is amended by  
7 striking the section and inserting in lieu thereof the  
8 following:

9 554.8403 DEMAND THAT ISSUER NOT REGISTER TRANSFER.

10 1. A person who is an appropriate person to make an  
11 indorsement or originate an instruction may demand that the  
12 issuer not register transfer of a security by communicating to  
13 the issuer a notification that identifies the registered owner  
14 and the issue of which the security is a part and provides an  
15 address for communications directed to the person making the  
16 demand. The demand is effective only if it is received by the  
17 issuer at a time and in a manner affording the issuer  
18 reasonable opportunity to act on it.

19 2. If a certificated security in registered form is  
20 presented to an issuer with a request to register transfer or  
21 an instruction is presented to an issuer with a request to  
22 register transfer of an uncertificated security after a demand  
23 that the issuer not register transfer has become effective,  
24 the issuer shall promptly communicate to (1) the person who  
25 initiated the demand at the address provided in the demand,  
26 and (2) the person who presented the security for registration  
27 of transfer or initiated the instruction requesting  
28 registration of transfer a notification stating that:

29 a. the certificated security has been presented for  
30 registration of transfer or the instruction for registration  
31 of transfer of the uncertificated security has been received;

32 b. a demand that the issuer not register transfer had  
33 previously been received; and

34 c. the issuer will withhold registration of transfer for a  
35 period of time stated in the notification in order to provide

1 the person who initiated the demand an opportunity to obtain  
2 legal process or an indemnity bond.

3 3. The period described in subsection 2, paragraph "c",  
4 not exceed thirty days after the date of communication of the  
5 notification. A shorter period may be specified by the issuer  
6 if it is not manifestly unreasonable.

7 4. An issuer is not liable to a person who initiated a  
8 demand that the issuer not register transfer for any loss the  
9 person suffers as a result of registration of a transfer  
10 pursuant to an effective indorsement or instruction if the  
11 person who initiated the demand does not, within the time  
12 stated in the issuer's communication, either:

13 a. obtain an appropriate restraining order, injunction, or  
14 other process from a court of competent jurisdiction enjoining  
15 the issuer from registering the transfer; or

16 b. file with the issuer an indemnity bond, sufficient in  
17 the issuer's judgment to protect the issuer and any transfer  
18 agent, registrar, or other agent of the issuer involved from  
19 any loss it or they may suffer by refusing to register the  
20 transfer.

21 5. This section does not relieve an issuer from liability  
22 for registering transfer pursuant to an indorsement or  
23 instruction that was not effective.

24 Sec. 39. Section 554.8404, Code 1995, is amended by  
25 striking the section and inserting in lieu thereof the  
26 following:

27 554.8404 WRONGFUL REGISTRATION.

28 1. Except as otherwise provided in section 554.8406, an  
29 issuer is liable for wrongful registration of transfer if the  
30 issuer has registered a transfer of a security to a person not  
31 entitled to it, and the transfer was registered:

32 a. pursuant to an ineffective indorsement or instruction;

33 b. after a demand that the issuer not register transfer  
34 became effective under section 554.8403, subsection 1, and the  
35 issuer did not comply with section 554.8403, subsection 2;

1 c. after the issuer had been served with an injunction,  
2 restraining order, or other legal process enjoining it from  
3 registering the transfer, issued by a court of competent  
4 jurisdiction, and the issuer had a reasonable opportunity to  
5 act on the injunction, restraining order, or other legal  
6 process; or

7 d. by an issuer acting in collusion with the wrongdoer.

8 2. An issuer that is liable for wrongful registration of  
9 transfer under subsection 1 on demand shall provide the person  
10 entitled to the security with a like certificated or  
11 uncertificated security, and any payments or distributions  
12 that the person did not receive as a result of the wrongful  
13 registration. If an overissue would result, the issuer's  
14 liability to provide the person with a like security is  
15 governed by section 554.8210.

16 3. Except as otherwise provided in subsection 1 or in a  
17 law relating to the collection of taxes, an issuer is not  
18 liable to an owner or other person suffering loss as a result  
19 of the registration of a transfer of a security if  
20 registration was made pursuant to an effective indorsement or  
21 instruction.

22 Sec. 40. Section 554.8405, Code 1995, is amended by  
23 striking the section and inserting in lieu thereof the  
24 following:

25 554.8405 REPLACEMENT OF LOST, DESTROYED, OR WRONGFULLY  
26 TAKEN SECURITY CERTIFICATE.

27 1. If an owner of a certificated security, whether in  
28 registered or bearer form, claims that the certificate has  
29 been lost, destroyed, or wrongfully taken, the issuer shall  
30 issue a new certificate if the owner:

31 a. so requests before the issuer has notice that the  
32 certificate has been acquired by a protected purchaser;

33 b. files with the issuer a sufficient indemnity bond; and

34 c. satisfies other reasonable requirements imposed by the  
35 issuer.

1 2. If, after the issue of a new security certificate, a  
2 protected purchaser of the original certificate presents it  
3 for registration of transfer, the issuer shall register the  
4 transfer unless an overissue would result. In that case, the  
5 issuer's liability is governed by section 554.8210. In  
6 addition to any rights on the indemnity bond, an issuer may  
7 recover the new certificate from a person to whom it was  
8 issued or any person taking under that person, except a  
9 protected purchaser.

10 Sec. 41. Section 554.8406, Code 1995, is amended by  
11 striking the section and inserting in lieu thereof the  
12 following:

13 554.8406 OBLIGATION TO NOTIFY ISSUER OF LOST, DESTROYED,  
14 OR WRONGFULLY TAKEN SECURITY CERTIFICATE.

15 If a security certificate has been lost, apparently  
16 destroyed, or wrongfully taken, and the owner fails to notify  
17 the issuer of that fact within a reasonable time after the  
18 owner has notice of it and the issuer registers a transfer of  
19 the security before receiving notification, the owner may not  
20 assert against the issuer a claim for registering the transfer  
21 under section 554.8404 or a claim to a new security  
22 certificate under section 554.8405.

23 Sec. 42. Section 554.8407, Code 1995, is amended by  
24 striking the section and inserting in lieu thereof the  
25 following:

26 554.8407 AUTHENTICATING TRUSTEE, TRANSFER AGENT, AND  
27 REGISTRAR.

28 A person acting as authenticating trustee, transfer agent,  
29 registrar, or other agent for an issuer in the registration of  
30 a transfer of its securities, in the issue of new security  
31 certificates or uncertificated securities, or in the  
32 cancellation of surrendered security certificates has the same  
33 obligation to the holder or owner of a certificated or  
34 uncertificated security with regard to the particular  
35 functions performed as the issuer has in regard to those

1 functions.

2

PART 5

3

SECURITY ENTITLEMENTS

4 Sec. 43. NEW SECTION. 554.8501 SECURITIES ACCOUNT --  
5 ACQUISITION OF SECURITY ENTITLEMENT FROM SECURITIES  
6 INTERMEDIARY.

7 1. "Securities account" means an account to which a  
8 financial asset is or may be credited in accordance with an  
9 agreement under which the person maintaining the account  
10 undertakes to treat the person for whom the account is  
11 maintained as entitled to exercise the rights that comprise  
12 the financial asset.

13 2. Except as otherwise provided in subsections 4 and 5, a  
14 person acquires a security entitlement if a securities  
15 intermediary:

16 a. indicates by book entry that a financial asset has been  
17 credited to the person's securities account;

18 b. receives a financial asset from the person or acquires  
19 a financial asset for the person and, in either case, accepts  
20 it for credit to the person's securities account; or

21 c. becomes obligated under other law, regulation, or rule  
22 to credit a financial asset to the person's securities  
23 account.

24 3. If a condition of subsection 2 has been met, a person  
25 has a security entitlement even though the securities  
26 intermediary does not itself hold the financial asset.

27 4. If a securities intermediary holds a financial asset  
28 for another person, and the financial asset is registered in  
29 the name of, payable to the order of, or specially indorsed to  
30 the other person, and has not been indorsed to the securities  
31 intermediary or in blank, the other person is treated as  
32 holding the financial asset directly rather than as having a  
33 security entitlement with respect to the financial asset.

34 5. Issuance of a security is not establishment of a  
35 security entitlement.

1     Sec. 44. NEW SECTION. 554.8502   ASSERTION OF ADVERSE  
2 CLAIM AGAINST ENTITLEMENT HOLDER.

3     An action based on an adverse claim to a financial asset,  
4 whether framed in conversion, replevin, constructive trust,  
5 equitable lien, or other theory, may not be asserted against a  
6 person who acquires a security entitlement under section  
7 554.8501 for value and without notice of the adverse claim.

8     Sec. 45. NEW SECTION. 554.8503   PROPERTY INTEREST OF  
9 ENTITLEMENT HOLDER IN FINANCIAL ASSET HELD BY SECURITIES  
10 INTERMEDIARY.

11    1. To the extent necessary for a securities intermediary  
12 to satisfy all security entitlements with respect to a  
13 particular financial asset, all interests in that financial  
14 asset held by the securities intermediary are held by the  
15 securities intermediary for the entitlement holders, are not  
16 property of the securities intermediary, and are not subject  
17 to claims of creditors of the securities intermediary, except  
18 as otherwise provided in section 554.8511.

19    2. An entitlement holder's property interest with respect  
20 to a particular financial asset under subsection 1 is a pro  
21 rata property interest in all interests in that financial  
22 asset held by the securities intermediary, without regard to  
23 the time the entitlement holder acquired the security  
24 entitlement or the time the securities intermediary acquired  
25 the interest in that financial asset.

26    3. An entitlement holder's property interest with respect  
27 to a particular financial asset under subsection 1 may be  
28 enforced against the securities intermediary only by exercise  
29 of the entitlement holder's rights under sections 554.8505  
30 through 554.8508.

31    4. An entitlement holder's property interest with respect  
32 to a particular financial asset under subsection 1 may be  
33 enforced against a purchaser of the financial asset or  
34 interest therein only if:

35    a. insolvency proceedings have been initiated by or

1 against the securities intermediary;

2 b. the securities intermediary does not have sufficient  
3 interests in the financial asset to satisfy the security  
4 entitlements of all of its entitlement holders to that  
5 financial asset;

6 c. the securities intermediary violated its obligations  
7 under section 554.8504 by transferring the financial asset or  
8 interest therein to the purchaser; and

9 d. the purchaser is not protected under subsection 5. The  
10 trustee or other liquidator, acting on behalf of all  
11 entitlement holders having security entitlements with respect  
12 to a particular financial asset, may recover the financial  
13 asset, or interest therein, from the purchaser. If the  
14 trustee or other liquidator elects not to pursue that right,  
15 an entitlement holder whose security entitlement remains  
16 unsatisfied has the right to recover its interest in the  
17 financial asset from the purchaser.

18 5. An action based on the entitlement holder's property  
19 interest with respect to a particular financial asset under  
20 subsection 1, whether framed in conversion, replevin,  
21 constructive trust, equitable lien, or other theory, may not  
22 be asserted against any purchaser of a financial asset or  
23 interest therein who gives value, obtains control, and does  
24 not act in collusion with the securities intermediary in  
25 violating the securities intermediary's obligations under  
26 section 554.8504.

27 Sec. 46. NEW SECTION. 554.8504 DUTY OF SECURITIES  
28 INTERMEDIARY TO MAINTAIN FINANCIAL ASSET.

29 1. A securities intermediary shall promptly obtain and  
30 thereafter maintain a financial asset in a quantity  
31 corresponding to the aggregate of all security entitlements it  
32 has established in favor of its entitlement holders with  
33 respect to that financial asset. The securities intermediary  
34 may maintain those financial assets directly or through one or  
35 more other securities intermediaries.

1 2. Except to the extent otherwise agreed by its  
2 entitlement holder, a securities intermediary may not grant  
3 any security interests in a financial asset it is obligated to  
4 maintain pursuant to subsection 1.

5 3. A securities intermediary satisfies the duty in  
6 subsection 1 if:

7 a. the securities intermediary acts with respect to the  
8 duty as agreed upon by the entitlement holder and the  
9 securities intermediary; or

10 b. in the absence of agreement, the securities  
11 intermediary exercises due care in accordance with reasonable  
12 commercial standards to obtain and maintain the financial  
13 asset.

14 4. This section does not apply to a clearing corporation  
15 that is itself the obligor of an option or similar obligation  
16 to which its entitlement holders have security entitlements.

17 Sec. 47. NEW SECTION. 554.8505 DUTY OF SECURITIES  
18 INTERMEDIARY WITH RESPECT TO PAYMENTS AND DISTRIBUTIONS.

19 1. A securities intermediary shall take action to obtain a  
20 payment or distribution made by the issuer of a financial  
21 asset. A securities intermediary satisfies the duty if:

22 a. the securities intermediary acts with respect to the  
23 duty as agreed upon by the entitlement holder and the  
24 securities intermediary; or

25 b. in the absence of agreement, the securities  
26 intermediary exercises due care in accordance with reasonable  
27 commercial standards to attempt to obtain the payment or  
28 distribution.

29 2. A securities intermediary is obligated to its  
30 entitlement holder for a payment or distribution made by the  
31 issuer of a financial asset if the payment or distribution is  
32 received by the securities intermediary.

33 Sec. 48. NEW SECTION. 554.8506 DUTY OF SECURITIES  
34 INTERMEDIARY TO EXERCISE RIGHTS AS DIRECTED BY ENTITLEMENT  
35 HOLDER.



1 A securities intermediary shall exercise rights with  
2 respect to a financial asset if directed to do so by an  
3 entitlement holder. A securities intermediary satisfies the  
4 duty if:

5 1. the securities intermediary acts with respect to the  
6 duty as agreed upon by the entitlement holder and the  
7 securities intermediary; or

8 2. in the absence of agreement, the securities  
9 intermediary either places the entitlement holder in a  
10 position to exercise the rights directly or exercises due care  
11 in accordance with reasonable commercial standards to follow  
12 the direction of the entitlement holder.

13 Sec. 49. NEW SECTION. 554.8507 DUTY OF SECURITIES  
14 INTERMEDIARY TO COMPLY WITH ENTITLEMENT ORDER.

15 1. A securities intermediary shall comply with an  
16 entitlement order if the entitlement order is originated by  
17 the appropriate person, the securities intermediary has had  
18 reasonable opportunity to assure itself that the entitlement  
19 order is genuine and authorized, and the securities  
20 intermediary has had reasonable opportunity to comply with the  
21 entitlement order. A securities intermediary satisfies the  
22 duty if:

23 a. the securities intermediary acts with respect to the  
24 duty as agreed upon by the entitlement holder and the  
25 securities intermediary; or

26 b. in the absence of agreement, the securities  
27 intermediary exercises due care in accordance with reasonable  
28 commercial standards to comply with the entitlement order.

29 2. If a securities intermediary transfers a financial  
30 asset pursuant to an ineffective entitlement order, the  
31 securities intermediary shall reestablish a security  
32 entitlement in favor of the person entitled to it, and pay or  
33 credit any payments or distributions that the person did not  
34 receive as a result of the wrongful transfer. If the  
35 securities intermediary does not reestablish a security

1 entitlement, the securities intermediary is liable to the

2

3 Sec. 50. NEW SECTION. 554.8508 DUTY OF SECURITIES  
4 INTERMEDIARY TO CHANGE ENTITLEMENT HOLDER'S POSITION TO OTHER  
5 FORM OF SECURITY HOLDING.

6 A securities intermediary shall act at the direction of an  
7 entitlement holder to change a security entitlement into  
8 another available form of holding for which the entitlement  
9 holder is eligible, or to cause the financial asset to be  
10 transferred to a securities account of the entitlement holder  
11 with another securities intermediary. A securities  
12 intermediary satisfies the duty if:

13 1. the securities intermediary acts as agreed upon by the  
14 entitlement holder and the securities intermediary; or

15 2. in the absence of agreement, the securities  
16 intermediary exercises due care in accordance with reasonable  
17 commercial standards to follow the direction of the  
18 entitlement holder.

19 Sec. 51. NEW SECTION. 554.8509 SPECIFICATION OF DUTIES  
20 OF SECURITIES INTERMEDIARY BY OTHER STATUTE OR REGULATION --  
21 MANNER OF PERFORMANCE OF DUTIES OF SECURITIES INTERMEDIARY AND  
22 EXERCISE OF RIGHTS OF ENTITLEMENT HOLDER.

23 1. If the substance of a duty imposed upon a securities  
24 intermediary by sections 554.8504 through 554.8508 is the  
25 subject of other statute, regulation, or rule, compliance with  
26 that statute, regulation, or rule satisfies the duty.

27 2. To the extent that specific standards for the  
28 performance of the duties of a securities intermediary or the  
29 exercise of the rights of an entitlement holder are not  
30 specified by other statute, regulation, or rule or by  
31 agreement between the securities intermediary and entitlement  
32 holder, the securities intermediary shall perform its duties  
33 and the entitlement holder shall exercise its rights in a  
34 commercially reasonable manner.

35 3. The obligation of a securities intermediary to perform

1 the duties imposed by sections 554.8504 through 554.8508 is  
2 subject to:

3 a. rights of the securities intermediary arising out of a  
4 security interest under a security agreement with the  
5 entitlement holder or otherwise; and

6 b. rights of the securities intermediary under other law,  
7 regulation, rule, or agreement to withhold performance of its  
8 duties as a result of unfulfilled obligations of the  
9 entitlement holder to the securities intermediary.

10 4. Sections 554.8504 through 554.8508 do not require a  
11 securities intermediary to take any action that is prohibited  
12 by other statute, regulation, or rule.

13 Sec. 52. NEW SECTION. 554.8510 RIGHTS OF PURCHASER OF  
14 SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER.

15 1. An action based on an adverse claim to a financial  
16 asset or security entitlement, whether framed in conversion,  
17 replevin, constructive trust, equitable lien, or other theory,  
18 may not be asserted against a person who purchases a security  
19 entitlement, or an interest therein, from an entitlement  
20 holder if the purchaser gives value, does not have notice of  
21 the adverse claim, and obtains control.

22 2. If an adverse claim could not have been asserted  
23 against an entitlement holder under section 554.8502, the  
24 adverse claim cannot be asserted against a person who  
25 purchases a security entitlement, or an interest therein, from  
26 the entitlement holder.

27 3. In a case not covered by the priority rules in Article  
28 9, a purchaser for value of a security entitlement, or an  
29 interest therein, who obtains control has priority over a  
30 purchaser of a security entitlement, or an interest therein,  
31 who does not obtain control. Purchasers who have control rank  
32 equally, except that a securities intermediary as purchaser  
33 has priority over a conflicting purchaser who has control  
34 unless otherwise agreed by the securities intermediary.

35 Sec. 53. NEW SECTION. 554.8511 PRIORITY AMONG SECURITY

1 INTERESTS AND ENTITLEMENT HOLDERS.

2 1. Except as otherwise provided in subsections 2 and 3, if  
3 a securities intermediary does not have sufficient interests  
4 in a particular financial asset to satisfy both its  
5 obligations to entitlement holders who have security  
6 entitlements to that financial asset and its obligation to a  
7 creditor of the securities intermediary who has a security  
8 interest in that financial asset, the claims of entitlement  
9 holders, other than the creditor, have priority over the claim  
10 of the creditor.

11 2. A claim of a creditor of a securities intermediary who  
12 has a security interest in a financial asset held by a  
13 securities intermediary has priority over claims of the  
14 securities intermediary's entitlement holders who have  
15 security entitlements with respect to that financial asset if  
16 the creditor has control over the financial asset.

17 3. If a clearing corporation does not have sufficient  
18 financial assets to satisfy both its obligations to  
19 entitlement holders who have security entitlements with  
20 respect to a financial asset and its obligation to a creditor  
21 of the clearing corporation who has a security interest in  
22 that financial asset, the claim of the creditor has priority  
23 over the claims of entitlement holders.

24 Sec. 54. Section 554.9103, subsection 6, Code 1995, is  
25 amended by striking the subsection and inserting in lieu  
26 thereof the following:

27 6. INVESTMENT PROPERTY.

28 a. This subsection applies to investment property.

29 b. Except as otherwise provided in paragraph "f", during  
30 the time that a security certificate is located in a  
31 jurisdiction, perfection of a security interest, the effect of  
32 perfection or nonperfection, and the priority of a security  
33 interest in the certificated security represented thereby are  
34 governed by the local law of that jurisdiction.

35 c. Except as otherwise provided in paragraph "f",

1 perfection of a security interest, the effect of perfection or  
2 non-perfection, and the priority of a security interest in an  
3 uncertificated security are governed by the local law of the  
4 issuer's jurisdiction as specified in section 554.8110,  
5 subsection 4.

6 d. Except as otherwise provided in paragraph "f",  
7 perfection of a security interest, the effect of perfection or  
8 non-perfection, and the priority of a security interest in a  
9 security entitlement or securities account are governed by the  
10 local law of the securities intermediary's jurisdiction as  
11 specified in section 554.8110, subsection 5.

12 e. Except as otherwise provided in paragraph "f",  
13 perfection of a security interest, the effect of perfection or  
14 non-perfection, and the priority of a security interest in a  
15 commodity contract or commodity account are governed by the  
16 local law of the commodity intermediary's jurisdiction. The  
17 following rules determine a "commodity intermediary's  
18 jurisdiction" for purposes of this paragraph:

19 (1) If an agreement between the commodity intermediary and  
20 commodity customer specifies that it is governed by the law of  
21 a particular jurisdiction, that jurisdiction is the commodity  
22 intermediary's jurisdiction.

23 (2) If an agreement between the commodity intermediary and  
24 commodity customer does not specify the governing law as  
25 provided in subparagraph (1), but expressly specifies that the  
26 commodity account is maintained at an office in a particular  
27 jurisdiction, that jurisdiction is the commodity  
28 intermediary's jurisdiction.

29 (3) If an agreement between the commodity intermediary and  
30 commodity customer does not specify a jurisdiction as provided  
31 in subparagraph (1) or (2), the commodity intermediary's  
32 jurisdiction is the jurisdiction in which is located the  
33 office identified in an account statement as the office  
34 serving the commodity customer's account.

35 (4) If an agreement between the commodity intermediary and

1 commodity customer does not specify a jurisdiction as provided  
2 in subparagraph (1) or (2) and an account statement does not  
3 identify an office serving the commodity customer's account as  
4 provided in subparagraph (3), the commodity intermediary's  
5 jurisdiction is the jurisdiction in which is located the chief  
6 executive office of the commodity intermediary.

7 f. Perfection of a security interest by filing, automatic  
8 perfection of a security interest in investment property  
9 granted by a broker or securities intermediary, and automatic  
10 perfection of a security interest in a commodity contract or  
11 commodity account granted by a commodity intermediary are  
12 governed by the local law of the jurisdiction in which the  
13 debtor is located.

14 Sec. 55. Section 554.9105, subsection 1, paragraphs h and  
15 i, Code 1995, are amended to read as follows:

16 h. "Goods" include all things which are movable at the  
17 time the security interest attaches or which are fixtures  
18 (section 554.9313), but do not include money, documents,  
19 instruments, investment property, accounts, chattel paper,  
20 general intangibles or minerals or the like (including oil and  
21 gas) before extraction. "Goods" also include standing timber  
22 which is to be cut and removed under a conveyance or contract  
23 for sale, the unborn young of animals and growing crops;

24 i. "Instrument" means a negotiable instrument (defined in  
25 section 554.3104), ~~or a certificated security (defined in~~  
26 ~~section 554.8102)~~ or any other writing which evidences a right  
27 to the payment of money and is not itself a security agreement  
28 or lease and is of a type which is in ordinary course of  
29 business transferred by delivery with any necessary  
30 endorsement or assignment. The term does not include  
31 investment property;

32 Sec. 56. Section 554.9105, subsection 2, Code 1995, is  
33 amended to read as follows:

34 2. Other definitions applying to this Article and the  
35 sections in which they appear are:

1	"Account"	Section 554.9106
2	"Attach"	Section 554.9203
3	<u>"Commodity contract"</u>	Section 554.9115
4	<u>"Commodity customer"</u>	Section 554.9115
5	<u>"Commodity intermediary"</u>	Section 554.9115
6	"Construction mortgage"	Section 554.9313(1)
7	"Consumer goods"	Section 554.9109(1)
8	"Equipment"	Section 554.9109(2)
9	"Farm products"	Section 554.9109(3)
10	"Fixture"	Section 554.9313
11	"Fixture filing"	Section 554.9313
12	"General intangibles"	Section 554.9106
13	"Inventory"	Section 554.9109(4)
14	<u>"Investment property"</u>	Section 554.9115
15	"Lien creditor"	Section 554.9301(3)
16	"Proceeds"	Section 554.9306(1)
17	"Purchase money security	
18	interest"	Section 554.9107
19	"United States"	Section 554.9103

20 Sec. 57. Section 554.9105, subsection 3, Code 1995, is  
 21 amended to read as follows:

22 3. The following definitions in other Articles apply to  
 23 this Article:

24	<u>"Broker"</u>	Section 554.8102
25	<u>"Certificated security"</u>	Section 554.8102
26	"Check"	Section 554.3104
27	<u>"Clearing corporation"</u>	Section 554.8102
28	"Contract for sale"	Section 554.2106
29	<u>"Control"</u>	Section 554.8106
30	<u>"Delivery"</u>	Section 554.8301
31	<u>"Entitlement holder"</u>	Section 554.8102
32	<u>"Financial asset"</u>	Section 554.8102
33	"Holder in due course"	Section 554.3302
34	"Note"	Section 554.3104
35	"Sale"	Section 554.2106

1	<u>"Securities intermediary"</u>	Section 554.8102
2	<u>"Security"</u>	Section 554.8102
3	<u>"Security certificate"</u>	Section 554.8102
4	<u>"Security entitlement"</u>	Section 554.8102
5	<u>"Uncertificated security "</u>	Section 554.8102

6 Sec. 58. Section 554.9106, Code 1995, is amended to read  
7 as follows:

8 554.9106 DEFINITIONS: "ACCOUNT" -- "GENERAL INTANGIBLES."

9 "Account" means any right to payment for goods sold or  
10 leased or for services rendered which is not evidenced by an  
11 instrument or chattel paper, whether or not it has been earned  
12 by performance. "General intangibles" means any personal  
13 property (including things in action) other than goods,  
14 accounts, chattel paper, documents, instruments, investment  
15 property, and money. All rights to payment earned or unearned  
16 under a charter or other contract involving the use or hire of  
17 a vessel and all rights incident to the charter or contract  
18 are accounts.

19 Sec. 59. NEW SECTION. 554.9115 INVESTMENT PROPERTY.

20 1. In this Article:

21 a. "Commodity account" means an account maintained by a  
22 commodity intermediary in which a commodity contract is  
23 carried for a commodity customer.

24 b. "Commodity contract" means a commodity futures  
25 contract, an option on a commodity futures contract, a  
26 commodity option, or other contract that, in each case, is:

27 (1) traded on or subject to the rules of a board of trade  
28 that has been designated as a contract market for such a  
29 contract pursuant to the federal commodities laws; or

30 (2) traded on a foreign commodity board of trade,  
31 exchange, or market, and is carried on the books of a  
32 commodity intermediary for a commodity customer.

33 c. "Commodity customer" means a person for whom a  
34 commodity intermediary carries a commodity contract on its  
35 books.



1 d. "Commodity intermediary" means:

2 (1) a person who is registered as a futures commission  
3 merchant under the federal commodities laws; or

4 (2) a person who in the ordinary course of its business  
5 provides clearance or settlement services for a board of trade  
6 that has been designated as a contract market pursuant to the  
7 federal commodities laws.

8 e. "Control" with respect to a certificated security,  
9 uncertificated security, or security entitlement has the  
10 meaning specified in section 554.8106. A secured party has  
11 control over a commodity contract if by agreement among the  
12 commodity customer, the commodity intermediary, and the  
13 secured party, the commodity intermediary has agreed that it  
14 will apply any value distributed on account of the commodity  
15 contract as directed by the secured party without further  
16 consent by the commodity customer. If a commodity customer  
17 grants a security interest in a commodity contract to its own  
18 commodity intermediary, the commodity intermediary as secured  
19 party has control. A secured party has control over a  
20 securities account or commodity account if the secured party  
21 has control over all security entitlements or commodity  
22 contracts carried in the securities account or commodity  
23 account.

24 f. "Investment property" means:

25 (1) a security, whether certificated or uncertificated;

26 (2) a security entitlement;

27 (3) a securities account;

28 (4) a commodity contract; or

29 (5) a commodity account.

30 2. Attachment or perfection of a security interest in a  
31 securities account is also attachment or perfection of a  
32 security interest in all security entitlements carried in the  
33 securities account. Attachment or perfection of a security  
34 interest in a commodity account is also attachment or  
35 perfection of a security interest in all commodity contracts

1 carried in the commodity account.

2 3. A description of collateral in a security agreement or  
3 financing statement is sufficient to create or perfect a  
4 security interest in a certificated security, uncertificated  
5 security, security entitlement, securities account, commodity  
6 contract, or commodity account whether it describes the  
7 collateral by those terms, or as investment property, or by  
8 description of the underlying security, financial asset, or  
9 commodity contract. A description of investment property  
10 collateral in a security agreement or financing statement is  
11 sufficient if it identifies the collateral by specific  
12 listing, by category, by quantity, by a computational or  
13 allocational formula or procedure, or by any other method, if  
14 the identity of the collateral is objectively determinable.

15 4. Perfection of a security interest in investment  
16 property is governed by the following rules:

17 a. a security interest in investment property may be  
18 perfected by control.

19 b. except as otherwise provided in paragraphs "c" and "d",  
20 a security interest in investment property may be perfected by  
21 filing.

22 c. if the debtor is a broker or securities intermediary, a  
23 security interest in investment property is perfected when it  
24 attaches. The filing of a financing statement with respect to  
25 a security interest in investment property granted by a broker  
26 or securities intermediary has no effect for purposes of  
27 perfection or priority with respect to that security interest.

28 d. if a debtor is a commodity intermediary, a security  
29 interest in a commodity contract or a commodity account is  
30 perfected when it attaches. The filing of a financing  
31 statement with respect to a security interest in a commodity  
32 contract or a commodity account granted by a commodity  
33 intermediary has no effect for purposes of perfection or  
34 priority with respect to that security interest.

35 e. priority between conflicting security interests in the

1 same investment property is governed by the following rules:

2 (1) a security interest of a secured party who has control  
3 over investment property has priority over a security interest  
4 of a secured party who does not have control over the  
5 investment property.

6 (2) except as otherwise provided in paragraphs "c" and  
7 "d", conflicting security interests of secured parties each of  
8 whom has control rank equally.

9 (3) except as otherwise agreed by the securities  
10 intermediary, a security interest in a security entitlement or  
11 a securities account granted to the debtor's own securities  
12 intermediary has priority over any security interest granted  
13 by the debtor to another secured party.

14 (4) except as otherwise agreed by the commodity  
15 intermediary, a security interest in a commodity contract or a  
16 commodity account granted to the debtor's own commodity  
17 intermediary has priority over any security interest granted  
18 by the debtor to another secured party.

19 (5) conflicting security interests granted by a broker, a  
20 securities intermediary, or a commodity intermediary which are  
21 perfected without control rank equally.

22 (6) in all other cases, priority between conflicting  
23 security interests in investment property is governed by  
24 section 554.9312, subsections 5, 6, and 7. Section 554.9312,  
25 subsection 4, does not apply to investment property.

26 f. if a security certificate in registered form is  
27 delivered to a secured party pursuant to agreement, a written  
28 security agreement is not required for attachment or  
29 enforceability of the security interest, delivery suffices for  
30 perfection of the security interest, and the security interest  
31 has priority over a conflicting security interest perfected by  
32 means other than control, even if a necessary indorsement is  
33 lacking.

34 Sec. 60. NEW SECTION. 554.9116 SECURITY INTEREST ARISING  
35 IN PURCHASE OR DELIVERY OF FINANCIAL ASSET.

1 1. If a person buys a financial asset through a securities  
2 intermediary in a transaction in which the buyer is obligated  
3 to pay the purchase price to the securities intermediary at  
4 the time of the purchase, and the securities intermediary  
5 credits the financial asset to the buyer's securities account  
6 before the buyer pays the securities intermediary, the  
7 securities intermediary has a security interest in the buyer's  
8 security entitlement securing the buyer's obligation to pay.  
9 A security agreement is not required for attachment or  
10 enforceability of the security interest, and the security  
11 interest is automatically perfected.

12 2. If a certificated security, or other financial asset  
13 represented by a writing which in the ordinary course of  
14 business is transferred by delivery with any necessary  
15 indorsement or assignment is delivered pursuant to an  
16 agreement between persons in the business of dealing with such  
17 securities or financial assets and the agreement calls for  
18 delivery versus payment, the person delivering the certificate  
19 or other financial asset has a security interest in the  
20 certificated security or other financial asset securing the  
21 seller's right to receive payment. A security agreement is  
22 not required for attachment or enforceability of the security  
23 interest, and the security interest is automatically  
24 perfected.

25 Sec. 61. Section 554.9203, subsection 1, Code 1995, is  
26 amended to read as follows:

27 1. Subject to the provisions of section 554.4210 on the  
28 security interest of a collecting bank, ~~section-554-8321-on~~  
29 ~~security-interests-in-securities~~ sections 554.9115 and  
30 554.9116 on security interest in investment property, and  
31 section 554.9113 on a security interest arising under the  
32 Article on Sales, a security interest is not enforceable  
33 against the debtor or third parties with respect to the  
34 collateral and does not attach unless:

35 a. the collateral is in the possession of the secured

1 party pursuant to agreement, the collateral is investment  
2 property and the secured party has control pursuant to  
3 agreement, or the debtor has signed a security agreement which  
4 contains a description of the collateral and in addition, when  
5 the security interest covers crops growing or to be grown or  
6 timber to be cut, a description of the land concerned;

7 b. value has been given; and

8 c. the debtor has rights in the collateral.

9 Sec. 62. Section 554.9301, subsection 1, paragraph d, Code  
10 1995, is amended to read as follows:

11 d. in the case of accounts, and general intangibles, and  
12 investment property, a person who is not a secured party and  
13 who is a transferee to the extent that that person gives value  
14 without knowledge of the security interest and before it is  
15 perfected.

16 Sec. 63. Section 554.9302, subsection 1, paragraphs b, f,  
17 and g, Code 1995, are amended to read as follows:

18 b. a security interest temporarily perfected in  
19 instruments, certificated securities, or documents without  
20 delivery under section 554.9304 or in proceeds for a ten-day  
21 period under section 554.9306;

22 f. a security interest of a collecting bank (section  
23 554.4210) ~~or in securities (section 554.8321)~~ or arising under  
24 the Article on Sales (see section 554.9113) or covered in  
25 subsection 3 of this section;

26 g. an assignment for the benefit of all the creditors of  
27 the transferor, and subsequent transfers by the assignee  
28 thereunder;

29 Sec. 64. Section 554.9302, subsection 1, Code 1995, is  
30 amended by adding the following new paragraph:

31 NEW PARAGRAPH. h. a security interest in investment  
32 property which is perfected without filing under section  
33 554.9115 or section 554.9116.

34 Sec. 65. Section 554.9303, subsection 1, Code 1995, is  
35 amended to read as follows:

1 1. A security interest is perfected when it has attached  
2 and when all of the applicable steps required for perfection  
3 have been taken. Such steps are specified in sections  
4 554.9115, 554.9302, 554.9304, 554.9305 and 554.9306. If such  
5 steps are taken before the security interest attaches, it is  
6 perfected at the time when it attaches.

7 Sec. 66. Section 554.9304, subsections 1, 4, and 5, Code  
8 1995, are amended to read as follows:

9 1. A security interest in chattel paper or negotiable  
10 documents may be perfected by filing. A security interest in  
11 money or instruments (other than ~~certificated-securities-or~~  
12 instruments which constitute part of chattel paper) can be  
13 perfected only by the secured party's taking possession,  
14 except as provided in subsections 4 and 5 of this section and  
15 section 554.9306, subsections 2 and 3, on proceeds.

16 4. A security interest in instruments, ~~(other-than a~~  
17 ~~certificated securities)~~, or negotiable documents is perfected  
18 without filing or the taking of possession for a period of  
19 twenty-one days from the time it attaches to the extent that  
20 it arises for new value given under a written security  
21 agreement.

22 5. A security interest remains perfected for a period of  
23 twenty-one days without filing where a secured party having a  
24 perfected security interest in an instrument, ~~(other-than a~~  
25 ~~certificated securities)~~, security, a negotiable document or  
26 goods in possession of a bailee other than one who has issued  
27 a negotiable document therefor

28 a. makes available to the debtor the goods or documents  
29 representing the goods for the purpose of ultimate sale or  
30 exchange or for the purpose of loading, unloading, storing,  
31 shipping, transshipping, manufacturing, processing or  
32 otherwise dealing with them in a manner preliminary to their  
33 sale or exchange, but priority between conflicting security  
34 interests in the goods is subject to section 554.9312,  
35 subsection 3; or

1 b. delivers the instrument or certificated security to the  
2 debtor for the purpose of ultimate sale or exchange or of  
3 presentation, collection, renewal, or registration of  
4 transfer.

5 Sec. 67. Section 554.9305, Code 1995, is amended to read  
6 as follows:

7 554.9305 WHEN POSSESSION BY SECURED PARTY PERFECTS  
8 SECURITY INTEREST WITHOUT FILING.

9 A security interest in letters of credit and advices of  
10 credit (subsection 2 "a" of section 554.5116), goods,  
11 instruments ~~{other-than-certificated-securities}~~, money,  
12 negotiable documents or chattel paper may be perfected by the  
13 secured party's taking possession of the collateral. If such  
14 collateral other than goods covered by a negotiable document  
15 is held by a bailee, the secured party is deemed to have  
16 possession from the time the bailee receives notification of  
17 the secured party's interest. A security interest is  
18 perfected by possession from the time possession is taken  
19 without relation back and continues only so long as possession  
20 is retained, unless otherwise specified in this Article. The  
21 security interest may be otherwise perfected as provided in  
22 this Article before or after the period of possession by the  
23 secured party.

24 Sec. 68. Section 554.9306, subsection 1, Code 1995, is  
25 amended to read as follows:

26 1. "Proceeds" include whatever is received upon the sale,  
27 exchange, collection or other disposition of collateral or  
28 proceeds. Insurance payable by reason of loss or damage to  
29 the collateral is proceeds, except to the extent that it is  
30 payable to a person other than a party to the security  
31 agreement. Any payments or distributions made with respect to  
32 investment property collateral are proceeds. Money, checks,  
33 deposit accounts and the like are "cash proceeds". All other  
34 proceeds are "noncash proceeds".

35 Sec. 69. Section 554.9306, subsection 3, paragraph b, Code

1 1995, is amended to read as follows:

2 b. a filed financing statement covers the original  
3 collateral and the proceeds are identifiable cash proceeds; or  
4 Sec. 70. Section 554.9306, subsection 3, Code 1995, is  
5 amended by adding the following new paragraph after paragraph  
6 b and relettering subsequent paragraphs:

7 NEW PARAGRAPH. c. the original collateral was investment  
8 property and the proceeds are identifiable cash proceeds; or  
9 Sec. 71. Section 554.9309, Code 1995, is amended to read  
10 as follows:

11 554.9309 PROTECTION OF PURCHASERS OF INSTRUMENTS AND  
12 DOCUMENTS AND SECURITIES.

13 Nothing in this Article limits the rights of a holder in  
14 due course of a negotiable instrument (section 554.3302) or a  
15 holder to whom a negotiable document of title has been duly  
16 negotiated (section 554.7501) or a bona-fide protected  
17 purchaser of a security (section ~~554.8302~~ 554.8303) and such  
18 holders or purchasers take priority over an earlier security  
19 interest even though perfected. Filing under this Article  
20 does not constitute notice of the security interest to such  
21 holders or purchasers.

22 Sec. 72. Section 554.9312, subsections 1 and 7, Code 1995,  
23 are amended to read as follows:

24 1. The rules of priority stated in other sections of this  
25 Part and in the following sections shall govern when  
26 applicable: section 554.4210 with respect to the security  
27 interests of collecting banks in items being collected,  
28 accompanying documents and proceeds; section 554.9103 on  
29 security interests related to other jurisdictions; section  
30 554.9114 on consignments; section 554.9115 on security  
31 interest in investment property.

32 7. If future advances are made while a security interest  
33 is perfected by filing, the taking of possession, or under  
34 section ~~554.8321-on-securities~~ 554.9115 or section 554.9116 on  
35 investment property, the security interest has the same



1 priority for the purposes of subsection 5 or section 554.9115,  
2 subsection 5, with respect to the future advances as it does  
3 with respect to the first advance. If a commitment is made  
4 before or while the security interest is so perfected, the  
5 security interest has the same priority with respect to  
6 advances made pursuant thereto. In other cases a perfected  
7 security interest has priority from the date the advance is  
8 made.

9 Sec. 73. Section 554.10104, subsection 2, Code 1995, is  
10 amended by striking the subsection.

11 Sec. 74. SAVINGS CLAUSE.

12 1. This Act does not affect an action or proceeding  
13 commenced before this Act takes effect.

14 2. If a security interest in a security is perfected at  
15 the date this Act takes effect, and the action by which the  
16 security interest was perfected would suffice to perfect a  
17 security interest under this Act, no further action is  
18 required to continue perfection. If a security interest in a  
19 security is perfected at the date this Act takes effect but  
20 the action by which the security interest was perfected would  
21 not suffice to perfect a security interest under this Act, the  
22 security interest remains perfected for a period of four  
23 months after the effective date and continues perfected  
24 thereafter if appropriate action to perfect under this Act is  
25 taken within that period. If a security interest is perfected  
26 at the date this Act takes effect and the security interest  
27 can be perfected by filing under this Act, a financing  
28 statement signed by the secured party instead of the debtor  
29 may be filed within that period to continue perfection or  
30 thereafter to perfect.

31 Sec. 75. REPEALS.

32 1. Sections 554.8308 through 554.8321, Code 1995, are  
33 repealed.

34 2. Section 554.8408, Code 1995, is repealed.

35 Sec. 76. EFFECTIVE DATE. This Act becomes effective on

1 July 1, 1997.

2

EXPLANATION

3 This bill provides for investment securities, by rewriting  
4 Article 8 of the uniform commercial code, as recommended by  
5 the American Law Institute and the National Conference of  
6 Commissioners on Uniform State Laws. The bill provides  
7 commercial law rules applicable to investment securities,  
8 including the holding of investment securities directly by  
9 investors or by persons on behalf of investor clients. The  
10 Article is divided into multiple parts.

11 Part 1 deals with definitions and general matters affecting  
12 the Article. Section 554.8012 provides definitions; section  
13 554.8013 includes provisions for determining whether certain  
14 obligations and interests are securities; section 554.8104  
15 provides for the acquisition of security or financial assets;  
16 section 554.8105 provides procedures for notice of an adverse  
17 claim; section 554.8106 provides for control; section 554.8107  
18 provides for indorsements, instructions, and entitlement  
19 orders; section 554.8108 provides for warranties involving  
20 direct holding; section 554.8109 provides for warranties in  
21 indirect holding; section 554.8110 provides for applicability  
22 and choice of law; section 554.8111 provides for clearing  
23 corporations; section 554.8112 provides for a creditor's legal  
24 processes; section 554.8113 provides for statutes of frauds;  
25 section 554.8114 provides for evidentiary rules concerning  
26 certificated securities; section 554.8115 provides for  
27 security intermediaries; and section 554.8116 provides for  
28 securities intermediaries as purchasers for values.

29 Parts 2, 3, and 4 deal with the rights of persons who hold  
30 securities directly. Under the bill, a person who holds a  
31 security through a broker or securities custodian has a  
32 security entitlement governed by the Part 5, and is not  
33 considered the direct holder of the security.

34 Part 2 is largely unchanged from current Iowa law. It  
35 deals with certain obligations of issuers. According to the

1 Prefactory Note to the model Act, the primary purpose of the  
2 provisions of Part 2 is to apply to investment securities the  
3 principles of negotiable instruments law that preclude the  
4 issuers of negotiable instruments from asserting defenses  
5 against subsequent purchasers. Section 554.8201 provides for  
6 issuers; section 554.8202 provides for an issuer's  
7 responsibility and defenses; section 554.8203 provides notice  
8 of defect or defense based on staleness; section 554.8204  
9 provides for the effect of an issuer's restriction on a  
10 transfer; section 554.8205 provides for the effect of an  
11 unauthorized signature on a security certificate; section  
12 554.8206 provides for completion or alternation of a security  
13 certificate; section 554.8207 provides for the rights and  
14 duties of an issuer; section 554.8208 provides for the effect  
15 of a signature of an authenticating trustee, registrar, or  
16 transfer agent; section 554.8209 provides for an issuer's  
17 lien; and section 554.8210 provides for overissue.

18 Part 3 deals with a transfer for securities held directly.  
19 This part applies to investment securities provisions  
20 regulating negotiable instruments that have protected  
21 purchasers of negotiable instruments against adverse claims.  
22 Section 554.8301 provides for delivery; section 554.8302  
23 provides for the rights of purchasers; section 554.8303  
24 provides for protected purchasers; section 554.8304 provides  
25 for indorsement; section 554.8305 provides for instructions;  
26 section 554.8306 provides for the effect of guaranteeing a  
27 signature, indorsement, or instruction; and section 554.8307  
28 provides for a purchaser's rights.

29 Part 4 deals with the process of registration of transfer  
30 by the issuer or transfer agent. Section 554.8401 provides  
31 for the duty of an issuer to register a transfer; section  
32 554.8402 provides for an assurance that an indorsement or  
33 instruction is effective; section 554.8403 provides for a  
34 demand that an issuer is not registering a transfer; section  
35 554.8404 provides for wrongful registration; section 554.8405

1 provides for the replacement of a lost, destroyed, or  
2 wrongfully taken security certificate; section 554.8406  
3 provides for an obligation to notify an issuer of a lost,  
4 destroyed, or wrongfully taken security certificate; and  
5 section 554.8407 provides for an authenticating trustee,  
6 transfer agency, or registrar.

7 Part 5 applies specifically to the indirect holding of  
8 securities, when one person holds securities on behalf of  
9 another. Part 5 provides for the rights and property interest  
10 associated with a security entitlement. The bill provides  
11 that a person acquires a security entitlement when a  
12 securities intermediary credits the financial asset to the  
13 person's account. A securities intermediary is a clearing  
14 corporation or a person, including a bank or broker, that in  
15 the ordinary course of its business maintains securities  
16 accounts for others. A "clearing agency" includes a federal  
17 reserve bank or any other person that provides clearance or  
18 settlement services with respect to financial assets and is  
19 required to register as such under the federal securities  
20 laws. Section 554.8501 provides for securities accounts and  
21 the acquisition of a security entitlement from a securities  
22 intermediary; section 554.8502 provides for the assertion of  
23 an adverse claim against an entitlement holder; section  
24 554.8503 provides for the property interest of an entitlement  
25 holder in a financial asset held by a securities intermediary;  
26 section 554.8504 provides for the duty of a securities  
27 intermediary to maintain financial assets; section 554.8505  
28 provides for the duty of a securities intermediary regarding  
29 payments and distributions; section 554.8506 provides for the  
30 duty of a securities intermediary to exercise rights as  
31 directed by an entitlement holder; section 554.8507 provides  
32 for the duty of a securities intermediary to comply with an  
33 entitlement order; section 554.8508 provides for a duty of a  
34 securities intermediary to change an entitlement holder's  
35 position to another form of security holder; section 554.8509

1 specifies duties of securities intermediaries and others;  
2 section 554.8510 provides for the rights of purchaser of  
3 securities entitlements from entitlement holders; and section  
4 554.8511 provides for priority among security interests and  
5 entitlement holders

6 Along with the revision of Article 8, the bill provides  
7 related changes in Articles 1, 4, 5, 9, and 10, including a  
8 number of changes concerning security interests in Article 9.

9 Conforming amendments to Articles other than Article 9  
10 include amendments to Article 1 providing general provisions  
11 applicable to the entire chapter, and specifically to section  
12 554.105, relating to the territorial application of the  
13 chapter, and section 554.1206, relating to statute of frauds  
14 for kinds of personal property; Article 4 providing for bank  
15 deposits and collections, and specifically section 554.4104,  
16 relating to definitions; Article 5 providing for letters of  
17 credit, and specifically section 554.5114, relating to an  
18 issuer's duties and rights; and Article 10 providing for the  
19 chapter's effective date and repealer, and specifically for  
20 the application of Article 8.

21 Article 9 provides for secured transactions, and  
22 specifically amends section 554.9103, relating to the  
23 perfection of security interests in multiple state  
24 transactions; section 554.9105, relating to definitions;  
25 section 554.9106, relating to specific definitions for  
26 accounts and general intangibles; section 554.9115, relating  
27 to investment property; section 554.9116, relating to security  
28 interests arising in purchase or delivery of financial assets;  
29 section 554.9203, relating to attachments and enforceability  
30 of security interests; section 554.9301, relating to persons  
31 who take priority over unperfected security interests; section  
32 554.9302, relating to requirements when filing is required to  
33 perfect a security interest; section 554.9303, relating to the  
34 perfection of security interests; section 554.9304, relating  
35 to the perfection of security interests in documents and goods

1 covered by documents; section 554.9305, relating to possession  
2 by a secured party perfecting a security interest without  
3 filing; section 554.9306, relating to a secured party's right  
4 of disposition of collateral; section 554.9309, relating to  
5 the protection of purchasers of instruments, documents, and  
6 securities; and section 554.9312, relating to priorities among  
7 conflicting security interests in the same collateral.

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SENATE FILE 2368

AN ACT

PROVIDING FOR THE REGULATION OF INVESTMENT SECURITIES UNDER ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE, AND PROVIDING CONFORMING CHANGES, AND AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 511.8, subsection 21, paragraph a, subparagraph (1), Code 1995, is amended to read as follows:

(1) "Clearing corporation" means a corporation as defined in section 554.81027-subsection-3.

Sec. 2. Section 515.35, subsection 2, paragraphs b and c, Code 1995, are amended to read as follows:

b. "Clearing corporation" means as defined in section 554.81027-subsection-3.

c. "Custodian bank" means ~~as defined in section 554-81027 subsection-4~~ a bank or trust company that is supervised and examined by state or federal authority having supervision over banks and is acting as custodian for a clearing corporation.

Sec. 3. Section 518.14, subsection 2, paragraph c, Code Supplement 1995, is amended to read as follows:

c. "Custodian bank" means as defined in section ~~554-81027~~ 515.35.

Sec. 4. Section 518A.12, subsection 2, paragraph c, Code Supplement 1995, is amended to read as follows:

c. "Custodian bank" means as defined in section ~~554-81027~~ 515.35.

Sec. 5. Section 554.1105, subsection 2, Code 1995, is amended to read as follows:

2. Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 554.2402.

Applicability of the Article on Bank Deposits and Collections. Section 554.4102.

Applicability of the Article on Investment Securities.

Section ~~554-8106~~ 554.8110.

Perfection provisions of the Article on Secured Transactions. Section 554.9103.

Governing law in the Article on Funds Transfers. Section 554.12507.

Applicability of the Article on Leases. Sections 554.13105 and 554.13106.

Sec. 6. Section 554.1206, subsection 2, Code 1995, is amended to read as follows:

2. Subsection 1 of this section does not apply to contracts for the sale of goods (section 554.2201) nor of securities (section ~~554-8119~~ 554.8113) nor to security agreements (section 554.9203).

Sec. 7. Section 554.4104, subsection 1, paragraph f, Code Supplement 1995, is amended to read as follows:

f. "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (section 554.8102) or instructions for

uncertificated securities (section 554-8308 554.8102), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft.

Sec. 8. Section 554.5114, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (section 554.7507) or of a certificated security (section 554-8306 554.8108) or is forged or fraudulent or there is fraud in the transaction:

Sec. 9. Section 554.5114, subsection 2, paragraph a, Code 1995, is amended to read as follows:

a. the issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (section 554.3302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (section 554.7502) or a bona-fide purchaser of a certificated or uncertificated security who acquires rights in a security (section 554.8302); and

PART 1

SHORT TITLE AND GENERAL MATTERS

Sec. 10. Section 554.8102, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8102 DEFINITIONS AND INDEX OF DEFINITIONS.

1. In this Article:

a. "Adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial asset.

b. "Bearer form", as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.

c. "Broker" means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

d. "Certificated security" means a security that is represented by a certificate.

e. "Clearing corporation" means:

- (1) a person that is registered as a "clearing agency" under the federal securities laws;
- (2) a federal reserve bank; or
- (3) any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.

f. "Communicate" means to:

- (1) send a signed writing; or
- (2) transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

g. "Entitlement holder" means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of section 554.8501, subsection 2, paragraph "b" or "c", that person is the entitlement holder.

h. "Entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.



i. "Financial asset", except as otherwise provided in section 554.8103, means:

- (1) a security;
- (2) an obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or
- (3) any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this Article.

As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.

j. "Good faith", for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this Article, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

k. "Indorsement" means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.

l. "Instruction" means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed.

m. "Registered form", as applied to a certificated security, means a form in which:

- (1) the security certificate specifies a person entitled to the security; and

(2) a transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

n. "Securities intermediary" means:

- (1) a clearing corporation; or
- (2) a person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

o. "Security", except as otherwise provided in section 554.8103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer:

(1) which is represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(2) which is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations; and

(3) which:

(a) is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

(b) is a medium for investment and by its terms expressly provides that it is a security governed by this Article.

p. "Security certificate" means a certificate representing a security.

q. "Security entitlement" means the rights and property interest of an entitlement holder with respect to a financial asset specified in Part 5.

r. "Uncertificated security" means a security that is not represented by a certificate.

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

- Appropriate person ..... Section 554.8107
- Control ..... Section 554.8106

Delivery .....	Section 554.8301
Investment company security .....	Section 554.8103
Issuer .....	Section 554.8201
Overissue .....	Section 554.8210
Protected purchaser .....	Section 554.8303
Securities account .....	Section 554.8501

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

4. The characterization of a person, business, or transaction for purposes of this Article does not determine the characterization of the person, business, or transaction for purposes of any other law, regulation, or rule.

Sec. 11. Section 554.8103, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

**554.8103 RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS.**

1. A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

2. An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

3. An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this

Article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

4. A writing that is a security certificate is governed by this Article and not by Article 3, even though it also meets the requirements of that Article. However, a negotiable instrument governed by Article 3 is a financial asset if it is held in a securities account.

5. An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

6. A commodity contract, as defined in section 554.9115, is not a security or a financial asset.

Sec. 12. Section 554.8104, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

**554.8104 ACQUISITION OF SECURITY OR FINANCIAL ASSET OR INTEREST THEREIN.**

1. A person acquires a security or an interest therein, under this Article, if:

- a. the person is a purchaser to whom a security is delivered pursuant to section 554.8301; or
- b. the person acquires a security entitlement to the security pursuant to section 554.8501.

2. A person acquires a financial asset, other than a security, or an interest therein, under this Article, if the person acquires a security entitlement to the financial asset.

3. A person who acquires a security entitlement to a security or other financial asset has the rights specified in Part 5, but is a purchaser of any security, security entitlement, or other financial asset held by the securities intermediary only to the extent provided in section 554.8503.

4. Unless the context shows that a different meaning is intended, a person who is required by other law, regulation, rule, or agreement to transfer, deliver, present, surrender,

exchange, or otherwise put in the possession of another person a security or financial asset satisfies that requirement by causing the other person to acquire an interest in the security or financial asset pursuant to subsection 1 or 2.

Sec. 13. Section 554.8105, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8105 NOTICE OF ADVERSE CLAIM.

1. A person has notice of an adverse claim if:
  - a. the person knows of the adverse claim;
  - b. the person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim; or
  - c. the person has a duty, imposed by statute or regulation, to investigate whether an adverse claim exists, and the investigation so required would establish the existence of the adverse claim.
2. Having knowledge that a financial asset or interest therein is or has been transferred by a representative imposes no duty of inquiry into the rightfulness of a transaction and is not notice of an adverse claim. However, a person who knows that a representative has transferred a financial asset or interest therein in a transaction that is, or whose proceeds are being used, for the individual benefit of the representative or otherwise in breach of duty has notice of an adverse claim.
3. An act or event that creates a right to immediate performance of the principal obligation represented by a security certificate or sets a date on or after which the certificate is to be presented or surrendered for redemption or exchange does not itself constitute notice of an adverse claim except in the case of a transfer more than:
  - a. one year after a date set for presentment or surrender for redemption or exchange; or

- b. six months after a date set for payment of money against presentation or surrender of the certificate, if money was available for payment on that date.

4. A purchaser of a certificated security has notice of an adverse claim if the security certificate:

- a. whether in bearer or registered form, has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or
- b. is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on the certificate is not such a statement.

5. Filing of a financing statement under Article 9 is not notice of an adverse claim to a financial asset.

Sec. 14. Section 554.8106, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8106 CONTROL.

1. A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.
2. A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:
  - a. the certificate is indorsed to the purchaser or in blank by an effective indorsement; or
  - b. the certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.
3. A purchaser has "control" of an uncertificated security if:
  - a. the uncertificated security is delivered to the purchaser; or
  - b. the issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

4. A purchaser has "control" of a security entitlement if:

- a. the purchaser becomes the entitlement holder; or
- b. the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder.

5. If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

6. A purchaser who has satisfied the requirements of subsection 3, paragraph "b", or subsection 4, paragraph "b", has control even if the registered owner in the case of subsection 3, paragraph "b", or the entitlement holder in the case of subsection 4, paragraph "b", retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

7. An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection 3, paragraph "b", or subsection 4, paragraph "b", without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

Sec. 15. Section 554.8107, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8107 WHETHER INDORSEMENT, INSTRUCTION, OR ENTITLEMENT ORDER IS EFFECTIVE.

1. "Appropriate person" means:

a. with respect to an indorsement, the person specified by a security certificate or by an effective special indorsement to be entitled to the security;

b. with respect to an instruction, the registered owner of an uncertificated security;

c. with respect to an entitlement order, the entitlement holder;

d. if the person designated in paragraph "a", "b", or "c" is deceased, the designated person's successor taking under other law or the designated person's personal representative acting for the estate of the decedent; or

e. if the person designated in paragraph "a", "b", or "c" lacks capacity, the designated person's guardian, conservator, or other similar representative who has power under other law to transfer the security or financial asset.

2. An indorsement, instruction, or entitlement order is effective if:

a. it is made by the appropriate person;

b. it is made by a person who has power under the law of agency to transfer the security or financial asset on behalf of the appropriate person, including, in the case of an instruction or entitlement order, a person who has control under section 554.8106, subsection 3, paragraph "b", or subsection 4, paragraph "b"; or

c. the appropriate person has ratified it or is otherwise precluded from asserting its ineffectiveness.

3. An indorsement, instruction, or entitlement order made by a representative is effective even if:

a. the representative has failed to comply with a controlling instrument or with the law of the state having jurisdiction of the representative relationship, including any law requiring the representative to obtain court approval of the transaction; or

b. the representative's action in making the indorsement, instruction, or entitlement order or using the proceeds of the transaction is otherwise a breach of duty.

4. If a security is registered in the name of or specially indorsed to a person described as a representative, or if a securities account is maintained in the name of a person described as a representative, an indorsement, instruction, or entitlement order made by the person is effective even though the person is no longer serving in the described capacity.

5. Effectiveness of an indorsement, instruction, or entitlement order is determined as of the date the indorsement, instruction, or entitlement order is made, and an indorsement, instruction, or entitlement order does not become ineffective by reason of any later change of circumstances.

Sec. 16. Section 554.8108, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8108 WARRANTIES IN DIRECT HOLDING.

1. A person who transfers a certificated security to a purchaser for value warrants to the purchaser, and an indorser, if the transfer is by indorsement, warrants to any subsequent purchaser, that:

- a. the certificate is genuine and has not been materially altered;
- b. the transferor or indorser does not know of any fact that might impair the validity of the security;
- c. there is no adverse claim to the security;
- d. the transfer does not violate any restriction on transfer;
- e. if the transfer is by indorsement, the indorsement is made by an appropriate person, or if the indorsement is by an agent, the agent has actual authority to act on behalf of the appropriate person; and
- f. the transfer is otherwise effective and rightful.

2. A person who originates an instruction for registration of transfer of an uncertificated security to a purchaser for value warrants to the purchaser that:

a. the instruction is made by an appropriate person, or if the instruction is by an agent, the agent has actual authority to act on behalf of the appropriate person;

b. the security is valid;

c. there is no adverse claim to the security; and

d. at the time the instruction is presented to the issuer:

(1) the purchaser will be entitled to the registration of transfer;

(2) the transfer will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction;

(3) the transfer will not violate any restriction on transfer; and

(4) the requested transfer will otherwise be effective and rightful.

3. A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants that:

a. the uncertificated security is valid;

b. there is no adverse claim to the security;

c. the transfer does not violate any restriction on transfer; and

d. the transfer is otherwise effective and rightful.

4. A person who indorses a security certificate warrants to the issuer that:

a. there is no adverse claim to the security; and

b. the indorsement is effective.

5. A person who originates an instruction for registration of transfer of an uncertificated security warrants to the issuer that:

a. the instruction is effective; and

b. at the time the instruction is presented to the issuer the purchaser will be entitled to the registration of transfer.

6. A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that the person is entitled to the registration, payment, or exchange, but a purchaser for value and without notice of adverse claims to whom transfer is registered warrants only that the person has no knowledge of any unauthorized signature in a necessary indorsement.

7. If a person acts as agent of another in delivering a certificated security to a purchaser, the identity of the principal was known to the person to whom the certificate was delivered, and the certificate delivered by the agent was received by the agent from the principal or received by the agent from another person at the direction of the principal, the person delivering the security certificate warrants only that the delivering person has authority to act for the principal and does not know of any adverse claim to the certificated security.

8. A secured party who redelivers a security certificate received, or after payment and on order of the debtor delivers the security certificate to another person, makes only the warranties of an agent under subsection 7.

9. Except as otherwise provided in subsection 7, a broker acting for a customer makes to the issuer and a purchaser the warranties provided in subsections 1 through 6. A broker that delivers a security certificate to its customer, or causes its customer to be registered as the owner of an uncertificated security, makes to the customer the warranties provided in subsection 1 or 2, and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of the customer.

Sec. 17. NEW SECTION. 554.8109 WARRANTIES IN INDIRECT HOLDING.

1. A person who originates an entitlement order to a securities intermediary warrants to the securities intermediary that:

a. the entitlement order is made by an appropriate person, or if the entitlement order is by an agent, the agent has actual authority to act on behalf of the appropriate person; and

b. there is no adverse claim to the security entitlement.

2. A person who delivers a security certificate to a securities intermediary for credit to a securities account or originates an instruction with respect to an uncertificated security directing that the uncertificated security be credited to a securities account makes to the securities intermediary the warranties specified in section 554.8108, subsection 1 or 2.

3. If a securities intermediary delivers a security certificate to its entitlement holder or causes its entitlement holder to be registered as the owner of an uncertificated security, the securities intermediary makes to the entitlement holder the warranties specified in section 554.8108, subsection 1 or 2.

Sec. 18. NEW SECTION. 554.8110 APPLICABILITY -- CHOICE OF LAW.

1. The local law of the issuer's jurisdiction, as specified in subsection 4, governs:

a. the validity of a security;

b. the rights and duties of the issuer with respect to registration of transfer;

c. the effectiveness of registration of transfer by the issuer;

d. whether the issuer owes any duties to an adverse claimant to a security; and

e. whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

2. The local law of the securities intermediary's jurisdiction, as specified in subsection 5, governs:

- a. acquisition of a security entitlement from the securities intermediary;
  - b. the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;
  - c. whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and
  - d. whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.
3. The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.
4. "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in subsection 1, paragraphs "b" through "e".
5. The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:
- a. if an agreement between the securities intermediary and its entitlement holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.
  - b. if an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in paragraph "a", but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.
  - c. if an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as

- provided in paragraph "a" or "b", the securities intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the entitlement holder's account.
- d. if an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph "a" or "b" and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph "c", the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary.
6. A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.
- Sec. 19. NEW SECTION. 554.8111 CLEARING CORPORATION RULES.
- A rule adopted by a clearing corporation governing rights and obligations among the clearing corporation and its participants in the clearing corporation is effective even if the rule conflicts with this Article and affects another party who does not consent to the rule.
- Sec. 20. NEW SECTION. 554.8112 CREDITOR'S LEGAL PROCESS.
1. The interest of a debtor in a certificated security may be reached by a creditor only by actual seizure of the security certificate by the officer making the attachment or levy, except as otherwise provided in subsection 4. However, a certificated security for which the certificate has been surrendered to the issuer may be reached by a creditor by legal process upon the issuer.

2. The interest of a debtor in an uncertificated security may be reached by a creditor only by legal process upon the issuer at its chief executive office in the United States, except as otherwise provided in subsection 4.

3. The interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor's securities account is maintained, except as otherwise provided in subsection 4.

4. The interest of a debtor in a certificated security for which the certificate is in the possession of a secured party, or in an uncertificated security registered in the name of a secured party, or a security entitlement maintained in the name of a secured party, may be reached by a creditor by legal process upon the secured party.

5. A creditor whose debtor is the owner of a certificated security, uncertificated security, or security entitlement is entitled to aid from a court of competent jurisdiction, by injunction or otherwise, in reaching the certificated security, uncertificated security, or security entitlement or in satisfying the claim by means allowed at law or in equity in regard to property that cannot readily be reached by other legal process.

Sec. 21. NEW SECTION. 554.8113 STATUTE OF FRAUDS  
INAPPLICABLE.

A contract or modification of a contract for the sale or purchase of a security is enforceable whether or not there is a writing signed or record authenticated by a party against whom enforcement is sought, even if the contract or modification is not capable of performance within one year of its making.

Sec. 22. NEW SECTION. 554.8114 EVIDENTIARY RULES  
CONCERNING CERTIFICATED SECURITIES.

The following rules apply in an action on a certificated security against the issuer:

1. Unless specifically denied in the pleadings, each signature on a security certificate or in a necessary indorsement is admitted.

2. If the effectiveness of a signature is put in issue, the burden of establishing effectiveness is on the party claiming under the signature, but the signature is presumed to be genuine or authorized.

3. If signatures on a security certificate are admitted or established, production of the certificate entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security.

4. If it is shown that a defense or defect exists, the plaintiff has the burden of establishing that the plaintiff or some person under whom the plaintiff claims is a person against whom the defense or defect cannot be asserted.

Sec. 23. NEW SECTION. 554.8115 SECURITIES INTERMEDIARY  
AND OTHERS NOT LIABLE TO ADVERSE CLAIMANT.

A securities intermediary that has transferred a financial asset pursuant to an effective entitlement order, or a broker or other agent or bailee that has dealt with a financial asset at the direction of its customer or principal, is not liable to a person having an adverse claim to the financial asset, unless the securities intermediary, or broker or other agent or bailee:

1. took the action after it had been served with an injunction, restraining order, or other legal process enjoining it from doing so, issued by a court of competent jurisdiction, and had a reasonable opportunity to act on the injunction, restraining order, or other legal process; or

2. acted in collusion with the wrongdoer in violating the rights of the adverse claimant; or

3. in the case of a security certificate that has been stolen, acted with notice of the adverse claim.

PART 2  
ISSUE AND ISSUER



Sec. 24. Section 554.8201, Code 1995, is amended to read as follows:

554.8201 "ISSUER".

1. With respect to obligations an obligation on or defenses a defense to a security, an "issuer" includes a person who that:

a. places or authorizes the placing of that-person's its name on a certificated security {otherwise certificate, other than as authenticating trustee, registrar, transfer agent, or the like}, to evidence that-it-represents a share, participation, or other interest in that-person's its property or in an enterprise, or to evidence that-person's its duty to perform an obligation represented by the certificated-security certificate;

b. creates shares a share, participations participation or other interests interest in the person's its property or in an enterprise, or undertakes obligations an obligation, which shares, participations, interests, or obligations are that is an uncertificated securities security;

c. directly or indirectly creates a fractional interests interest in that-person's its rights or property, which if the fractional interests are interest is represented by certificated-securities a security certificate; or

d. becomes responsible for, or in place of, any-other another person described as an issuer in this section.

2. With respect to obligations an obligation on or defenses defense to a security, a guarantor is an issuer to the extent of the-guarantor's-guaranty its guaranty, whether or not the-guarantor's its obligation is noted on a certificated security or on-statements-of-uncertificated securities-sent-pursuant-to-section-554-8400 certificate.

3. With respect to a registration of a transfer, pledge, or release-{Part-4-of-this-Article},-"issuer" issuer means a person on whose behalf transfer books are maintained.

Sec. 25. Section 554.8202, Code 1995, is amended to read as follows:

554.8202 ISSUER'S RESPONSIBILITY AND DEFENSES -- NOTICE OF DEFECT OR DEFENSE.

1. Even against a purchaser for value and without notice, the terms of a certificated security include:

a--if-the-security-is-certificated,those-stated-on-the security;

b--if-the-security-is-uncertificated,those-contained-in the-initial-transaction-statement-sent-to-such-purchaser,or if-the-purchaser's-interest-is-transferred-to-the-purchaser other-than-by-registration-of-transfer,pledge,or-release, the-initial-transaction-statement-sent-to-the-registered-owner or-registered-pledgee,and

c--those-made-part-of-the-security-by-reference,on-the certificated-security-or-in-the-initial-transaction-statement, terms stated on the certificate and terms made part of the security by reference on the certificate to another instrument, indenture, or document or to a constitution, statute, ordinance, rule, regulation, order, or the like, to the extent that the terms referred to do not conflict with the terms stated on the certificated-security-or-contained-in-the initial-statement certificate. A reference under this paragraph subsection does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even though the-certificated-security-or-statement if the certificate expressly states that a person accepting it admits notice. The terms of an uncertificated security, include those stated in any instrument, indenture, or document or in a constitution, statute, ordinance, rule, regulation, order, or the like pursuant to which the security is issued.

2. The following rules apply if an issuer asserts that a security is not valid:

a. A certificated security in-the-hands-of-a-purchaser-for value-or-an-uncertificated-security-as-to-which-an-initial

~~transaction-statement-has-been-sent-to-a-purchaser-for-value,~~ other than a security one issued by a government or governmental subdivision, agency, or unit instrumentality, even though issued with a defect going to its validity, is valid ~~with-respect-to-the~~ in the hands of a purchaser if the purchaser is for value and without notice of the particular defect unless the defect involves a violation of a constitutional ~~provisions, in which~~ provision. In that case, the security is valid ~~with-respect-to-a-subsequent in the hands of a purchaser for value and without notice of the defect, other than one who takes by original issue.~~

b. ~~This-subsection Paragraph "a"~~ applies to an issuer that is a government or governmental subdivision, agency, or unit instrumentality only if either there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

3. Except as otherwise provided in ~~the case of certain unauthorized signatures (section 554.8205),~~ lack of genuineness of a certificated security ~~or an initial transaction-statement~~ is a complete defense, even against a purchaser for value and without notice.

4. All other defenses of the issuer of a ~~certificated or uncertificated~~ security, including nondelivery and conditional delivery of a certificated security, are ineffective against a purchaser for value who has taken the certificated security without notice of the particular defense.

5. ~~Nothing in this~~ This section ~~shall be construed to does~~ not affect the right of a party to cancel a contract for a security "when, as and if issued" or a "when distributed" ~~contract to cancel the contract~~ in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement pursuant to which the security is to be issued or distributed.

6. If a security is held by a securities intermediary against whom an entitlement holder has a security entitlement with respect to the security, the issuer may not assert any defense that the issuer could not assert if the entitlement holder held the security directly.

Sec. 26. Section 554.8203, Code 1995, is amended to read as follows:

554.8203 STALENESS AS NOTICE OF ~~DEFECTS~~ DEFECT OR DEFENSES DEFENSE.

1. ~~After an act or event, other than a call that has been revoked, creating a right to immediate performance of the principal obligation represented by a certificated security or that gets setting a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer, if the act or event:~~

a. 1. ~~the act or event is one requiring~~ requires the payment of money, the delivery of a certificated securities security, the registration of transfer of an ~~uncertificated securities security,~~ or any of these them on presentation or surrender of the certificated security certificate, the funds money or securities are security is available on the date set for payment or exchange, and the purchaser takes the security more than one year after that date; and or

b. 2. ~~the act or event is not covered by paragraph "a" subsection 1 and the purchaser takes the security more than two years after the date set for surrender or presentation or the date on which performance became due.~~

2. ~~A call that has been revoked is not within subsection 1.~~

Sec. 27. Section 554.8204, Code 1995, is amended to read as follows:

554.8204 EFFECT OF ISSUER'S ~~RESTRICTIONS~~ RESTRICTION ON TRANSFER.

A restriction on transfer of a security imposed by the issuer, even though if otherwise lawful, is ineffective against any a person without actual knowledge of it the restriction unless:

- a- 1. the security is certificated and the restriction is noted conspicuously thereon on the security certificate; or
- b- 2. the security is uncertificated and ~~a notation of the restriction is contained in the initial transaction statement sent to the person or, if the person's interest is transferred to the person other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee~~ the registered owner has been notified of the restriction.

Sec. 28. Section 554.8205, Code 1995, is amended to read as follows:

554.8205 EFFECT OF UNAUTHORIZED SIGNATURE ON ~~CERTIFICATED SECURITY OR INITIAL TRANSACTION STATEMENT~~ CERTIFICATE.

An unauthorized signature placed on a certificated security prior to certificate or in the course of issue or placed on an initial transaction statement is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security or a purchaser for value of an uncertificated security to whom such initial transaction statement has been sent, if the purchaser is without notice of the lack of authority and if the signing has been done by:

- a- 1. an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security, ~~of similar securities, or of initial transaction statements~~ certificate or of similar security certificates, or the immediate preparation for signing of any of them; or
- b- 2. an employee of the issuer, or of any of the foregoing persons listed in subsection 1, entrusted with responsible handling of the security ~~or initial transaction statement~~ certificate.

Sec. 29. Section 554.8206, Code 1995, is amended to read as follows:

554.8206 COMPLETION OR ALTERATION OF ~~CERTIFICATED SECURITY OR INITIAL TRANSACTION STATEMENT~~ CERTIFICATE.

- 1. If a certificated security certificate contains the signatures necessary to its issue or transfer but is incomplete in any other respect:
  - a. any person may complete it by filling in the blanks as authorized; and
  - b. even though if the blanks are incorrectly filled in, the security certificate as completed is enforceable by a purchaser who took it for value and without notice of the incorrectness.

2. A complete certificated security certificate that has been improperly altered, even though if fraudulently, remains enforceable, but only according to its original terms.

~~3. If an initial transaction statement contains the signatures necessary to its validity, but is incomplete in any other respect:~~

~~a. any person may complete it by filling in the blanks as authorized; and~~

~~b. even though the blanks are incorrectly filled in, the statement as completed is effective in favor of the person to whom it is sent if the person purchased the security referred to therein for value and without notice of the incorrectness.~~

~~4. A complete initial transaction statement that has been improperly altered, even though fraudulently, is effective in favor of a purchaser to whom it has been sent, but only according to its original terms.~~

Sec. 30. Section 554.8207, Code 1995, is amended to read as follows:

554.8207 RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO REGISTERED OWNERS.

- 1. Prior to Before due presentment for registration of transfer of a certificated security in registered form, or of

~~an instruction requesting registration of transfer of an uncertificated security, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.~~

~~2. Subject to the provisions of subsections 3, 4, and 6, the issuer or indenture trustee may treat the registered owner of an uncertificated security as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.~~

~~3. 2. This Article does not affect the liability of the registered owner of an uncertificated security that is subject to a registered pledge is not entitled to registration of transfer prior to the due presentment to the issuer of a release instruction for a call, assessment, or the like. The exercise of conversion rights with respect to a convertible uncertificated security is a transfer within the meaning of this section.~~

~~4. Upon due presentment of a transfer instruction from the registered pledgee of an uncertificated security, the issuer shall:~~

~~a. register the transfer of the security to the new owner free of pledge, if the instruction specifies a new owner (who may be the registered pledgee) and does not specify a pledgee;~~

~~b. register the transfer of the security to the new owner subject to the interest of the existing pledgee, if the instruction specifies a new owner and the existing pledgee; or~~

~~c. register the release of the security from the existing pledge and register the pledge of the security to the other pledgee, if the instruction specifies the existing owner and another pledgee.~~

~~5. Continuity of perfection of a security interest is not broken by registration of transfer under subsection (4)(b) or by registration of release and pledge under subsection (4)(c) if the security interest is assigned.~~

~~6. If an uncertificated security is subject to a registered pledge:~~

~~a. any uncertificated securities issued in exchange for or distributed with respect to the pledged security shall be registered subject to the pledge;~~

~~b. any certificated securities issued in exchange for or distributed with respect to the pledged security shall be delivered to the registered pledgee; and~~

~~c. any money paid in exchange for or in redemption of part or all of the security shall be paid to the registered pledgee.~~

~~7. Nothing in this Article shall be construed to affect the liability of the registered owner of a security for calls, assessments, or the like.~~

Sec. 31. Section 554.8208, Code 1995, is amended to read as follows:

554.8208 EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE, REGISTRAR, OR TRANSFER AGENT.

1. A person placing that person's signature upon signing a certificated security or an initial transaction statement certificate, as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value of the certificated security, or a purchaser for value of an uncertificated security to whom the initial transaction statement has been sent, if the purchaser is without notice of the particular defect, that:

a. the certificated security or initial transaction statement certificate is genuine;

b. that the person's own participation in the issue or registration of transfer, pledge, or release of the security is within that the person's capacity and within the scope of the authority received by that the person from the issuer; and

c. that the person has reasonable grounds to believe that the certificated security is in the form and within the amount the issuer is authorized to issue.

2. Unless otherwise agreed, a person ~~by so placing that person's signature~~ signing under subsection 1 does not assume responsibility for the validity of the security in other respects.

Sec. 32. NEW SECTION. 554.8209 ISSUER'S LIEN.

A lien in favor of an issuer upon a certificated security is valid against a purchaser only if the right of the issuer to the lien is noted conspicuously on the security certificate.

Sec. 33. NEW SECTION. 554.8210 OVERISSUE.

1. In this section, "overissue" means the issue of securities in excess of the amount the issuer has corporate power to issue, but an overissue does not occur if appropriate action has cured the overissue.

2. Except as otherwise provided in subsections 3 and 4, the provisions of this Article which validate a security or compel its issue or reissue do not apply to the extent that validation, issue, or reissue would result in overissue.

3. If an identical security not constituting an overissue is reasonably available for purchase, a person entitled to issue or validation may compel the issuer to purchase the security and deliver it if certificated or register its transfer if uncertificated, against surrender of any security certificate the person holds.

4. If a security is not reasonably available for purchase, a person entitled to issue or validation may recover from the issuer the price the person or the last purchaser for value paid for it with interest from the date of the person's demand.

PART 3  
TRANSFER OF CERTIFICATED  
AND UNCERTIFICATED SECURITIES

Sec. 34. Section 554.8301, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8301 DELIVERY.

1. Delivery of a certificated security to a purchaser occurs when:

a. the purchaser acquires possession of the security certificate;

b. another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

c. a securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and has been specially indorsed to the purchaser by an effective indorsement.

2. Delivery of an uncertificated security to a purchaser occurs when:

a. the issuer registers the purchaser as the registered owner, upon original issue or registration of transfer; or

b. another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

Sec. 35. Section 554.8302, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8302 RIGHTS OF PURCHASER.

1. Except as otherwise provided in subsections 2 and 3, upon delivery of a certificated or uncertificated security to a purchaser, the purchaser acquires all rights in the security that the transferor had or had power to transfer.

2. A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

3. A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

Sec. 36. Section 554.8303, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8303 PROTECTED PURCHASER.

1. "Protected purchaser" means a purchaser of a certificated or uncertificated security, or of an interest therein, who:
  - a. gives value;
  - b. does not have notice of any adverse claim to the security; and
  - c. obtains control of the certificated or uncertificated security.
2. In addition to acquiring the rights of a purchaser, a protected purchaser also acquires its interest in the security free of any adverse claim.

Sec. 37. Section 554.8304, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8304 INDORSEMENT.

1. An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies to whom a security is to be transferred or who has power to transfer it. A holder may convert a blank indorsement to a special indorsement.
2. An indorsement purporting to be only of part of a security certificate representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.
3. An indorsement, whether special or in blank, does not constitute a transfer until delivery of the certificate on which it appears or, if the indorsement is on a separate document, until delivery of both the document and the certificate.
4. If a security certificate in registered form has been delivered to a purchaser without a necessary indorsement, the

purchaser may become a protected purchaser only when the indorsement is supplied. However, against a transferor, a transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

5. An indorsement of a security certificate in bearer form may give notice of an adverse claim to the certificate, but it does not otherwise affect a right to registration that the holder possesses.

6. Unless otherwise agreed, a person making an indorsement assumes only the obligations provided in section 554.8108 and not an obligation that the security will be honored by the issuer.

Sec. 38. Section 554.8305, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8305 INSTRUCTION.

1. If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed, even though it has been completed incorrectly.
2. Unless otherwise agreed, a person initiating an instruction assumes only the obligations imposed by section 554.8108 and not an obligation that the security will be honored by the issuer.

Sec. 39. Section 554.8306, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8306 EFFECT OF GUARANTEEING SIGNATURE, INDORSEMENT, OR INSTRUCTION.

1. A person who guarantees a signature of an indorser of a security certificate warrants that at the time of signing:
  - a. the signature was genuine;
  - b. the signer was an appropriate person to indorse, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person; and

- c. the signer had legal capacity to sign.
2. A person who guarantees a signature of the originator of an instruction warrants that at the time of signing:
  - a. the signature was genuine;
  - b. the signer was an appropriate person to originate the instruction, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person, if the person specified in the instruction as the registered owner was, in fact, the registered owner, as to which fact the signature guarantor does not make a warranty; and
  - c. the signer had legal capacity to sign.
3. A person who specially guarantees the signature of an originator of an instruction makes the warranties of a signature guarantor under subsection 2 and also warrants that at the time the instruction is presented to the issuer:
  - a. the person specified in the instruction as the registered owner of the uncertificated security will be the registered owner; and
  - b. the transfer of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.
4. A guarantor under subsections 1 and 2 or a special guarantor under subsection 3 does not otherwise warrant the rightfulness of the transfer.
5. A person who guarantees an indorsement of a security certificate makes the warranties of a signature guarantor under subsection 1 and also warrants the rightfulness of the transfer in all respects.
6. A person who guarantees an instruction requesting the transfer of an uncertificated security makes the warranties of a special signature guarantor under subsection 3 and also warrants the rightfulness of the transfer in all respects.
7. An issuer may not require a special guaranty of signature, a guaranty of indorsement, or a guaranty of instruction as a condition to registration of transfer.

8. The warranties under this section are made to a person taking or dealing with the security in reliance on the guaranty, and the guarantor is liable to the person for loss resulting from their breach. An indorser or originator of an instruction whose signature, indorsement, or instruction has been guaranteed is liable to a guarantor for any loss suffered by the guarantor as a result of breach of the warranties of the guarantor.

Sec. 40. Section 554.8307, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8307 PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION OF TRANSFER.

Unless otherwise agreed, the transferor of a security on due demand shall supply the purchaser with proof of authority to transfer or with any other requisite necessary to obtain registration of the transfer of the security, but if the transfer is not for value, a transferor need not comply unless the purchaser pays the necessary expenses. If the transferor fails within a reasonable time to comply with the demand, the purchaser may reject or rescind the transfer.

PART 4  
REGISTRATION

Sec. 41. Section 554.8401, Code 1995, is amended to read as follows:

554.8401 DUTY OF ISSUER TO REGISTER TRANSFER~~7-PLEDGE7-OR~~  
RELEASE.

1. If a certificated security in registered form is presented to the an issuer with a request to register transfer or an instruction is presented to the an issuer with a request to register transfer, ~~pledge7-or-release~~ the issuer shall register the transfer~~7-pledge7-or-release~~ as requested if:

- a. ~~the security is endorsed or the instruction was originated by the appropriate person or persons (section 554.8300)~~ under the terms of the security the person seeking

registration of transfer is eligible to have the security registered in its name;

b. the indorsement or instruction is made by the appropriate person or by an agent who has actual authority to act on behalf of the appropriate person;

b. c. reasonable assurance is given that those endorsements the indorsement or instructions are instruction is genuine and effective authorized (section 554.8402);

c. the issuer has no duty as to adverse claims or has discharged the duty (section 554.8403);

d. any applicable law relating to the collection of taxes has been complied with; and

e. the transfer, pledge, or release is in fact rightful or is to a bona fide purchaser does not violate any restriction on transfer imposed by the issuer in accordance with section 554.8204.

f. a demand that the issuer not register transfer has not become effective under section 554.8403, or the issuer has complied with section 554.8403, subsection 2, but no legal process or indemnity bond is obtained as provided in section 554.8403, subsection 4; and

g. the transfer is in fact rightful or is to a protected purchaser.

2. If an issuer is under a duty to register a transfer, pledge, or release of a security, the issuer is also liable to the a person presenting a certificated security or an instruction for registration or that to the person's principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer, pledge, or release.

Sec. 42. Section 554.8402, Code 1995, is amended to read as follows:

554.8402 ASSURANCE THAT ENDORSEMENTS-AND-INSTRUCTIONS-ARE INDORSEMENT OR INSTRUCTION IS EFFECTIVE.

1. The An issuer may require the following assurance that each necessary endorsement-of-a-certificated-security indorsement or each instruction (section 554.8308) is genuine and effective authorized:

a. in all cases, a guarantee of the signature (section 554.8312, subsection 1 or 2) of the person endorsing-a certificated-security making an indorsement or originating an instruction including, in the case of an instruction, a warranty-of-the-taxpayer-identification-number-or, in the absence thereof, other reasonable assurance of identity;

b. if the endorsement indorsement is made or the instruction is originated by an agent, appropriate assurance of actual authority to sign;

c. if the endorsement indorsement is made or the instruction is originated by a fiduciary, pursuant to section 554.8107, subsection 1, paragraph "d" or subsection 1, paragraph "e", appropriate evidence of appointment or incumbency;

d. if there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; and

e. if the endorsement indorsement is made or the instruction is originated by a person not covered by any-of the-foregoing another provision of this subsection, assurance appropriate to the case corresponding as nearly as may be to the foregoing provisions of this subsection.

2. An issuer may elect to require reasonable assurance beyond that specified in this section.

3. In this section:

2: a. A "guarantee "Guaranty of the signature" in subsection-1 means a guarantee guaranty signed by or on behalf of a person reasonably believed by the issuer to be responsible. The An issuer may adopt standards with respect to responsibility if they are not manifestly unreasonable.

3: b. "Appropriate evidence of appointment or incumbency" in-subsection-1 means



a- (1) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that ~~the~~ court or an officer ~~of-that-court~~ thereof and dated within ~~one-hundred-eighty~~ ~~sixty~~ days before the date of presentation for transfer, ~~pledge, or release;~~ or

b- (2) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by ~~the~~ ~~an~~ issuer to be responsible or, in the absence of that document or certificate, other evidence ~~the issuer~~ reasonably ~~deemed-by-the-issuer-to-be~~ ~~considers~~ appropriate. ~~The issuer may adopt standards with respect to the evidence if they are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this paragraph "b" except to the extent that the contents relate directly to the appointment or incumbency.~~

~~4. The issuer may elect to require reasonable assurance beyond that specified in this section, but if it does so and, for a purpose other than that specified in subsection 3-"b", both requires and obtains a copy of a will, trust, indenture, articles of copartnership, bylaws, or other controlling instrument, it is charged with notice of all matters contained therein affecting the transfer, pledge, or release.~~

Sec. 43. Section 554.8403, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8403 DEMAND THAT ISSUER NOT REGISTER TRANSFER.

1. A person who is an appropriate person to make an indorsement or originate an instruction may demand that the issuer not register transfer of a security by communicating to the issuer a notification that identifies the registered owner and the issue of which the security is a part and provides an address for communications directed to the person making the demand. The demand is effective only if it is received by the issuer at a time and in a manner affording the issuer reasonable opportunity to act on it.

2. If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security after a demand that the issuer not register transfer has become effective, the issuer shall promptly communicate to (i) the person who initiated the demand at the address provided in the demand, and (ii) the person who presented the security for registration of transfer or initiated the instruction requesting registration of transfer a notification stating that:

- a. the certificated security has been presented for registration of transfer or the instruction for registration of transfer of the uncertificated security has been received;
- b. a demand that the issuer not register transfer had previously been received; and
- c. the issuer will withhold registration of transfer for a period of time stated in the notification in order to provide the person who initiated the demand an opportunity to obtain legal process or an indemnity bond.

3. The period described in subsection 2, paragraph "c", may not exceed thirty days after the date of communication of the notification. A shorter period may be specified by the issuer if it is not manifestly unreasonable.

4. An issuer is not liable to a person who initiated a demand that the issuer not register transfer for any loss the person suffers as a result of registration of a transfer pursuant to an effective indorsement or instruction if the person who initiated the demand does not, within the time stated in the issuer's communication, either:

- a. obtain an appropriate restraining order, injunction, or other process from a court of competent jurisdiction enjoining the issuer from registering the transfer; or
- b. file with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer

agent, registrar, or other agent of the issuer involved from any loss it or they may suffer by refusing to register the transfer.

5. This section does not relieve an issuer from liability for registering transfer pursuant to an indorsement or instruction that was not effective.

Sec. 44. Section 554.8404, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8404 WRONGFUL REGISTRATION.

1. Except as otherwise provided in section 554.8406, an issuer is liable for wrongful registration of transfer if the issuer has registered a transfer of a security to a person not entitled to it, and the transfer was registered:

- a. pursuant to an ineffective indorsement or instruction;
- b. after a demand that the issuer not register transfer became effective under section 554.8403, subsection 1, and the issuer did not comply with section 554.8403, subsection 2;
- c. after the issuer had been served with an injunction, restraining order, or other legal process enjoining it from registering the transfer, issued by a court of competent jurisdiction, and the issuer had a reasonable opportunity to act on the injunction, restraining order, or other legal process; or
- d. by an issuer acting in collusion with the wrongdoer.

2. An issuer that is liable for wrongful registration of transfer under subsection 1 on demand shall provide the person entitled to the security with a like certificated or uncertificated security, and any payments or distributions that the person did not receive as a result of the wrongful registration. If an overissue would result, the issuer's liability to provide the person with a like security is governed by section 554.8210.

3. Except as otherwise provided in subsection 1 or in a law relating to the collection of taxes, an issuer is not

liable to an owner or other person suffering loss as a result of the registration of a transfer of a security if registration was made pursuant to an effective indorsement or instruction.

Sec. 45. Section 554.8405, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8405 REPLACEMENT OF LOST, DESTROYED, OR WRONGFULLY TAKEN SECURITY CERTIFICATE.

1. If an owner of a certificated security, whether in registered or bearer form, claims that the certificate has been lost, destroyed, or wrongfully taken, the issuer shall issue a new certificate if the owner:
  - a. so requests before the issuer has notice that the certificate has been acquired by a protected purchaser;
  - b. files with the issuer a sufficient indemnity bond; and
  - c. satisfies other reasonable requirements imposed by the issuer.
2. If, after the issue of a new security certificate, a protected purchaser of the original certificate presents it for registration of transfer, the issuer shall register the transfer unless an overissue would result. In that case, the issuer's liability is governed by section 554.8210. In addition to any rights on the indemnity bond, an issuer may recover the new certificate from a person to whom it was issued or any person taking under that person, except a protected purchaser.

Sec. 46. Section 554.8406, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8406 OBLIGATION TO NOTIFY ISSUER OF LOST, DESTROYED, OR WRONGFULLY TAKEN SECURITY CERTIFICATE.

If a security certificate has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after the

owner has notice of it and the issuer registers a transfer of the security before receiving notification, the owner may not assert against the issuer a claim for registering the transfer under section 554.8404 or a claim to a new security certificate under section 554.8405.

Sec. 47. Section 554.8407, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8407 AUTHENTICATING TRUSTEE, TRANSFER AGENT, AND REGISTRAR.

A person acting as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of a transfer of its securities, in the issue of new security certificates or uncertificated securities, or in the cancellation of surrendered security certificates has the same obligation to the holder or owner of a certificated or uncertificated security with regard to the particular functions performed as the issuer has in regard to those functions.

PART 5  
SECURITY ENTITLEMENTS

Sec. 48. NEW SECTION. 554.8501 SECURITIES ACCOUNT -- ACQUISITION OF SECURITY ENTITLEMENT FROM SECURITIES INTERMEDIARY.

1. "Securities account" means an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset.

2. Except as otherwise provided in subsections 4 and 5, a person acquires a security entitlement if a securities intermediary:

a. indicates by book entry that a financial asset has been credited to the person's securities account;

b. receives a financial asset from the person or acquires a financial asset for the person and, in either case, accepts it for credit to the person's securities account; or

c. becomes obligated under other law, regulation, or rule to credit a financial asset to the person's securities account.

3. If a condition of subsection 2 has been met, a person has a security entitlement even though the securities intermediary does not itself hold the financial asset.

4. If a securities intermediary holds a financial asset for another person, and the financial asset is registered in the name of, payable to the order of, or specially indorsed to the other person, and has not been indorsed to the securities intermediary or in blank, the other person is treated as holding the financial asset directly rather than as having a security entitlement with respect to the financial asset.

5. Issuance of a security is not establishment of a security entitlement.

Sec. 49. NEW SECTION. 554.8502 ASSERTION OF ADVERSE CLAIM AGAINST ENTITLEMENT HOLDER.

An action based on an adverse claim to a financial asset, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who acquires a security entitlement under section 554.8501 for value and without notice of the adverse claim.

Sec. 50. NEW SECTION. 554.8503 PROPERTY INTEREST OF ENTITLEMENT HOLDER IN FINANCIAL ASSET HELD BY SECURITIES INTERMEDIARY.

1. To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, are not property of the securities intermediary, and are not subject to claims of creditors of the securities intermediary, except as otherwise provided in section 554.8511.

2. An entitlement holder's property interest with respect to a particular financial asset under subsection 1 is a pro rata property interest in all interests in that financial asset held by the securities intermediary, without regard to the time the entitlement holder acquired the security entitlement or the time the securities intermediary acquired the interest in that financial asset.

3. An entitlement holder's property interest with respect to a particular financial asset under subsection 1 may be enforced against the securities intermediary only by exercise of the entitlement holder's rights under sections 554.8505 through 554.8508.

4. An entitlement holder's property interest with respect to a particular financial asset under subsection 1 may be enforced against a purchaser of the financial asset or interest therein only if:

a. insolvency proceedings have been initiated by or against the securities intermediary;

b. the securities intermediary does not have sufficient interests in the financial asset to satisfy the security entitlements of all of its entitlement holders to that financial asset;

c. the securities intermediary violated its obligations under section 554.8504 by transferring the financial asset or interest therein to the purchaser; and

d. the purchaser is not protected under subsection 5. The trustee or other liquidator, acting on behalf of all entitlement holders having security entitlements with respect to a particular financial asset, may recover the financial asset, or interest therein, from the purchaser. If the trustee or other liquidator elects not to pursue that right, an entitlement holder whose security entitlement remains unsatisfied has the right to recover its interest in the financial asset from the purchaser.

5. An action based on the entitlement holder's property interest with respect to a particular financial asset under subsection 1, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against any purchaser of a financial asset or interest therein who gives value, obtains control, and does not act in collusion with the securities intermediary in violating the securities intermediary's obligations under section 554.8504.

Sec. 51. NEW SECTION. 554.8504 DUTY OF SECURITIES INTERMEDIARY TO MAINTAIN FINANCIAL ASSET.

1. A securities intermediary shall promptly obtain and thereafter maintain a financial asset in a quantity corresponding to the aggregate of all security entitlements it has established in favor of its entitlement holders with respect to that financial asset. The securities intermediary may maintain those financial assets directly or through one or more other securities intermediaries.

2. Except to the extent otherwise agreed by its entitlement holder, a securities intermediary may not grant any security interests in a financial asset it is obligated to maintain pursuant to subsection 1.

3. A securities intermediary satisfies the duty in subsection 1 if:

a. the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

b. in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to obtain and maintain the financial asset.

4. This section does not apply to a clearing corporation that is itself the obligor of an option or similar obligation to which its entitlement holders have security entitlements.

Sec. 52. NEW SECTION. 554.8505 DUTY OF SECURITIES INTERMEDIARY WITH RESPECT TO PAYMENTS AND DISTRIBUTIONS.

1. A securities intermediary shall take action to obtain a payment or distribution made by the issuer of a financial asset. A securities intermediary satisfies the duty if:

a. the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

b. in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to attempt to obtain the payment or distribution.

2. A securities intermediary is obligated to its entitlement holder for a payment or distribution made by the issuer of a financial asset if the payment or distribution is received by the securities intermediary.

Sec. 53. NEW SECTION. 554.8506 DUTY OF SECURITIES INTERMEDIARY TO EXERCISE RIGHTS AS DIRECTED BY ENTITLEMENT HOLDER.

A securities intermediary shall exercise rights with respect to a financial asset if directed to do so by an entitlement holder. A securities intermediary satisfies the duty if:

1. the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

2. in the absence of agreement, the securities intermediary either places the entitlement holder in a position to exercise the rights directly or exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder.

Sec. 54. NEW SECTION. 554.8507 DUTY OF SECURITIES INTERMEDIARY TO COMPLY WITH ENTITLEMENT ORDER.

1. A securities intermediary shall comply with an entitlement order if the entitlement order is originated by

the appropriate person, the securities intermediary has had reasonable opportunity to assure itself that the entitlement order is genuine and authorized, and the securities intermediary has had reasonable opportunity to comply with the entitlement order. A securities intermediary satisfies the duty if:

a. the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

b. in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to comply with the entitlement order.

2. If a securities intermediary transfers a financial asset pursuant to an ineffective entitlement order, the securities intermediary shall reestablish a security entitlement in favor of the person entitled to it, and pay or credit any payments or distributions that the person did not receive as a result of the wrongful transfer. If the securities intermediary does not reestablish a security entitlement, the securities intermediary is liable to the entitlement holder for damages.

Sec. 55. NEW SECTION. 554.8508 DUTY OF SECURITIES INTERMEDIARY TO CHANGE ENTITLEMENT HOLDER'S POSITION TO OTHER FORM OF SECURITY HOLDING.

A securities intermediary shall act at the direction of an entitlement holder to change a security entitlement into another available form of holding for which the entitlement holder is eligible, or to cause the financial asset to be transferred to a securities account of the entitlement holder with another securities intermediary. A securities intermediary satisfies the duty if:

1. the securities intermediary acts as agreed upon by the entitlement holder and the securities intermediary; or

2. in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable

commercial standards to follow the direction of the entitlement holder.

Sec. 56. NEW SECTION. 554.8509 SPECIFICATION OF DUTIES OF SECURITIES INTERMEDIARY BY OTHER STATUTE OR REGULATION -- MANNER OF PERFORMANCE OF DUTIES OF SECURITIES INTERMEDIARY AND EXERCISE OF RIGHTS OF ENTITLEMENT HOLDER.

1. If the substance of a duty imposed upon a securities intermediary by sections 554.8504 through 554.8508 is the subject of other statute, regulation, or rule, compliance with that statute, regulation, or rule satisfies the duty.

2. To the extent that specific standards for the performance of the duties of a securities intermediary or the exercise of the rights of an entitlement holder are not specified by other statute, regulation, or rule or by agreement between the securities intermediary and entitlement holder, the securities intermediary shall perform its duties and the entitlement holder shall exercise its rights in a commercially reasonable manner.

3. The obligation of a securities intermediary to perform the duties imposed by sections 554.8504 through 554.8508 is subject to:

a. rights of the securities intermediary arising out of a security interest under a security agreement with the entitlement holder or otherwise; and

b. rights of the securities intermediary under other law, regulation, rule, or agreement to withhold performance of its duties as a result of unfulfilled obligations of the entitlement holder to the securities intermediary.

4. Sections 554.8504 through 554.8508 do not require a securities intermediary to take any action that is prohibited by other statute, regulation, or rule.

Sec. 57. NEW SECTION. 554.8510 RIGHTS OF PURCHASER OF SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER.

1. An action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion,

replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

2. If an adverse claim could not have been asserted against an entitlement holder under section 554.8502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

3. In a case not covered by the priority rules in Article 9, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. Purchasers who have control rank equally, except that a securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

Sec. 58. NEW SECTION. 554.8511 PRIORITY AMONG SECURITY INTERESTS AND ENTITLEMENT HOLDERS.

1. Except as otherwise provided in subsections 2 and 3, if a securities intermediary does not have sufficient interests in a particular financial asset to satisfy both its obligations to entitlement holders who have security entitlements to that financial asset and its obligation to a creditor of the securities intermediary who has a security interest in that financial asset, the claims of entitlement holders, other than the creditor, have priority over the claim of the creditor.

2. A claim of a creditor of a securities intermediary who has a security interest in a financial asset held by a securities intermediary has priority over claims of the securities intermediary's entitlement holders who have security entitlements with respect to that financial asset if the creditor has control over the financial asset.

3. If a clearing corporation does not have sufficient financial assets to satisfy both its obligations to entitlement holders who have security entitlements with respect to a financial asset and its obligation to a creditor of the clearing corporation who has a security interest in that financial asset, the claim of the creditor has priority over the claims of entitlement holders.

Sec. 59. Section 554.9103, subsection 6, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

6. INVESTMENT PROPERTY.

a. This subsection applies to investment property.

b. Except as otherwise provided in paragraph "f", during the time that a security certificate is located in a jurisdiction, perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby are governed by the local law of that jurisdiction.

c. Except as otherwise provided in paragraph "f", perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security are governed by the local law of the issuer's jurisdiction as specified in section 554.8110, subsection 4.

d. Except as otherwise provided in paragraph "f", perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account are governed by the local law of the securities intermediary's jurisdiction as specified in section 554.8110, subsection 5.

e. Except as otherwise provided in paragraph "f", perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account are governed by the local law of the commodity intermediary's jurisdiction. The

following rules determine a "commodity intermediary's jurisdiction" for purposes of this paragraph:

(1) If an agreement between the commodity intermediary and commodity customer specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(2) If an agreement between the commodity intermediary and commodity customer does not specify the governing law as provided in subparagraph (1), but expressly specifies that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(3) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraph (1) or (2), the commodity intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the commodity customer's account.

(4) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraph (1) or (2) and an account statement does not identify an office serving the commodity customer's account as provided in subparagraph (3), the commodity intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the commodity intermediary.

f. Perfection of a security interest by filing, automatic perfection of a security interest in investment property granted by a broker or securities intermediary, and automatic perfection of a security interest in a commodity contract or commodity account granted by a commodity intermediary are governed by the local law of the jurisdiction in which the debtor is located.

Sec. 60. Section 554.9105, subsection 1, paragraphs h and i, Code 1995, are amended to read as follows:

h. "Goods" include all things which are movable at the time the security interest attaches or which are fixtures (section 554.9313), but do not include money, documents, instruments, investment property, accounts, chattel paper, general intangibles or minerals or the like (including oil and gas) before extraction. "Goods" also include standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops;

i. "Instrument" means a negotiable instrument (defined in section 554.3104), ~~or a certificated security (defined in section 554.8102)~~ or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary endorsement or assignment. The term does not include investment property;

Sec. 61. Section 554.9105, subsection 2, Code 1995, is amended to read as follows:

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

"Account"	Section 554.9106
"Attach"	Section 554.9203
"Commodity contract"	Section 554.9115
"Commodity customer"	Section 554.9115
"Commodity intermediary"	Section 554.9115
"Construction mortgage"	Section 554.9313(1)
"Consumer goods"	Section 554.9109(1)
"Control"	Section 554.9115
"Equipment"	Section 554.9109(2)
"Farm products"	Section 554.9109(3)
"Fixture"	Section 554.9313
"Fixture filing"	Section 554.9313
"General intangibles"	Section 554.9106
"Inventory"	Section 554.9109(4)
"Investment property"	Section 554.9115

"Lien creditor"	Section 554.9301(3)
"Proceeds"	Section 554.9306(1)
"Purchase money security interest"	Section 554.9107
"United States"	Section 554.9103

Sec. 62. Section 554.9105, subsection 3, Code 1995, is amended to read as follows:

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

"Broker"	Section 554.8102
"Certificated security"	Section 554.8102
"Check"	Section 554.3104
"Clearing corporation"	Section 554.8102
"Contract for sale"	Section 554.2106
"Control"	Section 554.8106
"Delivery"	Section 554.8301
"Entitlement holder"	Section 554.8102
"Financial asset"	Section 554.8102
"Holder in due course"	Section 554.3302
"Note"	Section 554.3104
"Sale"	Section 554.2106
"Securities intermediary"	Section 554.8102
"Security"	Section 554.8102
"Security certificate"	Section 554.8102
"Security entitlement"	Section 554.8102
"Uncertificated security"	Section 554.8102

Sec. 63. Section 554.9106, Code 1995, is amended to read as follows:

554.9106 DEFINITIONS: "ACCOUNT" -- "GENERAL INTANGIBLES."

"Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. "General intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, investment



property, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.

Sec. 64. NEW SECTION. 554.9115 INVESTMENT PROPERTY.

1. In this Article:

a. "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

b. "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or other contract that, in each case, is:

- (1) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to the federal commodities laws; or
- (2) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

c. "Commodity customer" means a person for whom a commodity intermediary carries a commodity contract on its books.

d. "Commodity intermediary" means:

- (1) a person who is registered as a futures commission merchant under the federal commodities laws; or
- (2) a person who in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to the federal commodities laws.

e. "Control" with respect to a certificated security, uncertificated security, or security entitlement has the meaning specified in section 554.8106. A secured party has control over a commodity contract if by agreement among the commodity customer, the commodity intermediary, and the secured party, the commodity intermediary has agreed that it will apply any value distributed on account of the commodity

contract as directed by the secured party without further consent by the commodity customer. If a commodity customer grants a security interest in a commodity contract to its own commodity intermediary, the commodity intermediary as secured party has control. A secured party has control over a securities account or commodity account if the secured party has control over all security entitlements or commodity contracts carried in the securities account or commodity account.

f. "Investment property" means:

- (1) a security, whether certificated or uncertificated;
- (2) a security entitlement;
- (3) a securities account;
- (4) a commodity contract; or
- (5) a commodity account.

2. Attachment or perfection of a security interest in a securities account is also attachment or perfection of a security interest in all security entitlements carried in the securities account. Attachment or perfection of a security interest in a commodity account is also attachment or perfection of a security interest in all commodity contracts carried in the commodity account.

3. A description of collateral in a security agreement or financing statement is sufficient to create or perfect a security interest in a certificated security, uncertificated security, security entitlement, securities account, commodity contract, or commodity account whether it describes the collateral by those terms, or as investment property, or by description of the underlying security, financial asset, or commodity contract. A description of investment property collateral in a security agreement or financing statement is sufficient if it identifies the collateral by specific listing, by category, by quantity, by a computational or allocational formula or procedure, or by any other method, if the identity of the collateral is objectively determinable.

4. Perfection of a security interest in investment property is governed by the following rules:

a. a security interest in investment property may be perfected by control.

b. except as otherwise provided in paragraphs "c" and "d", a security interest in investment property may be perfected by filing.

c. if the debtor is a broker or securities intermediary, a security interest in investment property is perfected when it attaches. The filing of a financing statement with respect to a security interest in investment property granted by a broker or securities intermediary has no effect for purposes of perfection or priority with respect to that security interest.

d. if a debtor is a commodity intermediary, a security interest in a commodity contract or a commodity account is perfected when it attaches. The filing of a financing statement with respect to a security interest in a commodity contract or a commodity account granted by a commodity intermediary has no effect for purposes of perfection or priority with respect to that security interest.

5. Priority between conflicting security interests in the same investment property is governed by the following rules:

a. a security interest of a secured party who has control over investment property has priority over a security interest of a secured party who does not have control over the investment property.

b. except as otherwise provided in paragraphs "c" and "d", conflicting security interests of secured parties each of whom has control rank equally.

c. except as otherwise agreed by the securities intermediary, a security interest in a security entitlement or a securities account granted to the debtor's own securities intermediary has priority over any security interest granted by the debtor to another secured party.

d. except as otherwise agreed by the commodity intermediary, a security interest in a commodity contract or a commodity account granted to the debtor's own commodity intermediary has priority over any security interest granted by the debtor to another secured party.

e. conflicting security interests granted by a broker, a securities intermediary, or a commodity intermediary which are perfected without control rank equally.

f. in all other cases, priority between conflicting security interests in investment property is governed by section 554.9312, subsections 5, 6, and 7. Section 554.9312, subsection 4, does not apply to investment property.

6. If a security certificate in registered form is delivered to a secured party pursuant to agreement, a written security agreement is not required for attachment or enforceability of the security interest, delivery suffices for perfection of the security interest, and the security interest has priority over a conflicting security interest perfected by means other than control, even if a necessary indorsement is lacking.

Sec. 65. NEW SECTION. 554.9116 SECURITY INTEREST ARISING IN PURCHASE OR DELIVERY OF FINANCIAL ASSET.

1. If a person buys a financial asset through a securities intermediary in a transaction in which the buyer is obligated to pay the purchase price to the securities intermediary at the time of the purchase, and the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary, the securities intermediary has a security interest in the buyer's security entitlement securing the buyer's obligation to pay. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

2. If a certificated security, or other financial asset represented by a writing which in the ordinary course of

business is transferred by delivery with any necessary indorsement or assignment is delivered pursuant to an agreement between persons in the business of dealing with such securities or financial assets and the agreement calls for delivery versus payment, the person delivering the certificate or other financial asset has a security interest in the certificated security or other financial asset securing the seller's right to receive payment. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

Sec. 66. Section 554.9203, subsection 1, Code 1995, is amended to read as follows:

1. Subject to the provisions of section 554.4210 on the security interest of a collecting bank, ~~section-554-8321-on security-interests-in-securities~~ sections 554.9115 and 554.9116 on security interests in investment property, and section 554.9113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

- a. the collateral is in the possession of the secured party pursuant to agreement, the collateral is investment property and the secured party has control pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned;
- b. value has been given; and
- c. the debtor has rights in the collateral.

Sec. 67. Section 554.9301, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. in the case of accounts, ~~and~~ general intangibles, and investment property, a person who is not a secured party and who is a transferee to the extent that that person gives value

without knowledge of the security interest and before it is perfected.

Sec. 68. Section 554.9302, subsection 1, paragraphs b, f, and g, Code 1995, are amended to read as follows:

b. a security interest temporarily perfected in instruments, certificated securities, or documents without delivery under section 554.9304 or in proceeds for a ten-day period under section 554.9306;

f. a security interest of a collecting bank (section 554.4210) ~~or in securities (section-554-8321)~~ or arising under the Article on Sales (see section 554.9113) or covered in subsection 3 of this section;

g. an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

Sec. 69. Section 554.9302, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. a security interest in investment property which is perfected without filing under section 554.9115 or section 554.9116.

Sec. 70. Section 554.9303, subsection 1, Code 1995, is amended to read as follows:

1. A security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken. Such steps are specified in sections 554.9115, 554.9302, 554.9304, 554.9305 and 554.9306. If such steps are taken before the security interest attaches, it is perfected at the time when it attaches.

Sec. 71. Section 554.9304, subsections 1, 4, and 5, Code 1995, are amended to read as follows:

1. A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than ~~certificated securities or~~ instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession,

except as provided in subsections 4 and 5 of this section and section 554.9306, subsections 2 and 3, on proceeds.

4. A security interest in instruments, ~~other-than~~ certificated securities, or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

5. A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument, ~~other-than a~~ certificated securities, security, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

a. makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to section 554.9312, subsection 3; or

b. delivers the instrument or certificated security to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal, or registration of transfer.

Sec. 72. Section 554.9305, Code 1995, is amended to read as follows:

554.9305 WHEN POSSESSION BY SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING.

A security interest in letters of credit and advices of credit (subsection 2 "a" of section 554.5116), goods, instruments ~~other-than-certificated-securities~~, money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such

collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.

Sec. 73. Section 554.9306, subsection 1, Code 1995, is amended to read as follows:

1. "Proceeds" include whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Any payments or distributions made with respect to investment property collateral are proceeds. Money, checks, deposit accounts and the like are "cash proceeds". All other proceeds are "noncash proceeds".

Sec. 74. Section 554.9306, subsection 3, paragraph b, Code 1995, is amended to read as follows:

b. a filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds; ~~or~~

Sec. 75. Section 554.9306, subsection 3, Code 1995, is amended by adding the following new paragraph after paragraph b and relettering subsequent paragraphs:

NEW PARAGRAPH. c. the original collateral was investment property and the proceeds are identifiable cash proceeds; or

Sec. 76. Section 554.9309, Code 1995, is amended to read as follows:

554.9309 PROTECTION OF PURCHASERS OF INSTRUMENTS AND DOCUMENTS AND SECURITIES.

Nothing in this Article limits the rights of a holder in due course of a negotiable instrument (section 554.3302) or a holder to whom a negotiable document of title has been duly negotiated (section 554.7501) or a bona-fide protected purchaser of a security (section 554-8302 554.8303) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this Article does not constitute notice of the security interest to such holders or purchasers.

Sec. 77. Section 554.9312, subsections 1 and 7, Code 1995, are amended to read as follows:

1. The rules of priority stated in other sections of this Part and in the following sections shall govern when applicable: section 554.4210 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; section 554.9103 on security interests related to other jurisdictions; section 554.9114 on consignments; section 554.9115 on security interest in investment property.

7. If future advances are made while a security interest is perfected by filing, the taking of possession, or under section 554-8321-on-securities 554.9115 or section 554.9116 on investment property, the security interest has the same priority for the purposes of subsection 5 or section 554.9115, subsection 5, with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

Sec. 78. Section 554.10104, subsection 2, Code 1995, is amended by striking the subsection.

Sec. 79. Section 633.89, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A fiduciary as defined in section 633.3, subsection-17 holding securities, and a bank as defined in section 524.103, subsection-7 which is holding securities as a managing agent or as a custodian, including a custodian for a fiduciary, may deposit securities in a clearing corporation, as defined in section 554.8102, subsection-3 which is located within or without the state of Iowa, if the clearing corporation is federally regulated. A depositing bank is subject to rules adopted by the superintendent of banking, with respect to state banks, and by the comptroller of the currency, with respect to national banking associations.

Sec. 80. SAVINGS CLAUSE.

1. This Act does not affect an action or proceeding commenced before this Act takes effect.

2. If a security interest in a security is perfected at the date this Act takes effect, and the action by which the security interest was perfected would suffice to perfect a security interest under this Act, no further action is required to continue perfection. If a security interest in a security is perfected at the date this Act takes effect but the action by which the security interest was perfected would not suffice to perfect a security interest under this Act, the security interest remains perfected for a period of four months after the effective date and continues perfected thereafter if appropriate action to perfect under this Act is taken within that period. If a security interest is perfected at the date this Act takes effect and the security interest can be perfected by filing under this Act, a financing statement signed by the secured party instead of the debtor may be filed within that period to continue perfection or thereafter to perfect.

Sec. 81. REPEALS.

1. Sections 554.8308 through 554.8321, Code 1995, are repealed.

2. Section 554.8408, Code 1995, is repealed.

Sec. 82. Sections 633.130 through 633.138, Code 1995, are repealed.

Sec. 83. PREVAILING STATUTE. If 1996 Iowa Acts, Senate File 2270, or 1996 Iowa Acts, House File 2402, is enacted, either of those Acts prevails over the amendments to section 554.5114 in this Act.

Sec. 84. EFFECTIVE DATE. This Act becomes effective on July 1, 1997.

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LEONARD L. BOSWELL  
President of the Senate

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RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2368, Seventy-sixth General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved 4/18, 1996

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TERRY E. BRANSTAD  
Governor