

Senate Study Bill 2318

Conference Committee Text

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1 1 Section 1. Section [554.1105](#), subsection 2, Code 1995, is
1 2 amended to read as follows:

1 3 2. Where one of the following provisions of this chapter
1 4 specifies the applicable law, that provision governs and a
1 5 contrary agreement is effective only to the extent permitted
1 6 by the law (including the conflict of laws rules) so
1 7 specified:

1 8 Rights of creditors against sold goods. Section 554.2402.

1 9 Applicability of the Article on Bank Deposits and

1 10 Collections. Section 554.4102.

1 11 Applicability of the Article on Investment Securities.

1 12 Section

~~554.8106~~

- ~~554.8110~~.

1 13 Perfection provisions of the Article on Secured

1 14 Transactions. Section 554.9103.

1 15 Governing law in the Article on Funds Transfers. Section

1 16 554.12507.

1 17 Applicability of the Article on Leases. Sections 554.13105

1 18 and 554.13106.

1 19 Sec. 2. Section [554.1206](#), subsection 2, Code 1995, is

1 20 amended to read as follows:

1 21 2. Subsection 1 of this section does not apply to

1 22 contracts for the sale of goods (section 554.2201) nor of

1 23 securities (section

~~554.8319~~

- ~~554.8113~~) nor to security

1 24 agreements (section 554.9203).

1 25 Sec. 3. Section 554.4104, subsection 1, paragraph f, Code

1 26 Supplement 1995, is amended to read as follows:

1 27 f. "Documentary draft" means a draft to be presented for

1 28 acceptance or payment if specified documents, certificated

1 29 securities (section 554.8102) or instructions for

1 30 uncertificated securities (section

~~554.8308~~

- ~~554.8102~~), or

1 31 other certificates, statements, or the like are to be received

1 32 by the drawee or other payor before acceptance or payment of

1 33 the draft.

1 34 Sec. 4. Section [554.5114](#), subsection 2, unnumbered

1 35 paragraph 1, Code 1995, is amended to read as follows:

2 1 Unless otherwise agreed when documents appear on their face

2 2 to comply with the terms of a credit but a required document

2 3 does not in fact conform to the warranties made on negotiation

2 4 or transfer of a document of title (section 554.7507) or of a

2 5 certificated security (section

~~554.8306~~

- ~~554.8108~~) or is forged

2 6 or fraudulent or there is fraud in the transaction:

2 7 PART 1

2 8 SHORT TITLE AND GENERAL MATTERS

2 9 Sec. 5. Section [554.8102](#), Code 1995, is amended by

2 10 striking the section and inserting in lieu thereof the
2 11 following:

2 12 554.8102 DEFINITIONS AND INDEX OF DEFINITIONS.

2 13 1. In this Article:

2 14 a. "Adverse claim" means a claim that a claimant has a
2 15 property interest in a financial asset and that it is a
2 16 violation of the rights of the claimant for another person to
2 17 hold, transfer, or deal with the financial asset.

2 18 b. "Bearer form", as applied to a certificated security,
2 19 means a form in which the security is payable to the bearer of
2 20 the security certificate according to its terms but not by
2 21 reason of an indorsement.

2 22 c. "Broker" means a person defined as a broker or dealer
2 23 under the federal securities laws, but without excluding a
2 24 bank acting in that capacity.

2 25 d. "Certificated security" means a security that is
2 26 represented by a certificate.

2 27 e. "Clearing corporation" means:

2 28 (1) a person that is registered as a "clearing agency"

2 29 under the federal securities laws;

2 30 (2) a federal reserve bank; or

2 31 (3) any other person that provides clearance or settlement
2 32 services with respect to financial assets that would require
2 33 it to register as a clearing agency under the federal
2 34 securities laws but for an exclusion or exemption from the
2 35 registration requirement, if its activities as a clearing
3 1 corporation, including promulgation of rules, are subject to
3 2 regulation by a federal or state governmental authority.

3 3 f. "Communicate" means to:

3 4 (1) send a signed writing; or

3 5 (2) transmit information by any mechanism agreed upon by
3 6 the persons transmitting and receiving the information.

3 7 g. "Entitlement holder" means a person identified in the
3 8 records of a securities intermediary as the person having a
3 9 security entitlement against the securities intermediary. If
3 10 a person acquires a security entitlement by virtue of section
3 11 554.8501, subsection 2, paragraph "b" or "c", that person is
3 12 the entitlement holder.

3 13 h. "Entitlement order" means a notification communicated
3 14 to a securities intermediary directing transfer or redemption
3 15 of a financial asset to which the entitlement holder has a
3 16 security entitlement.

3 17 i. "Financial asset", except as otherwise provided in
3 18 section 554.8103, means:

3 19 (1) a security;

3 20 (2) an obligation of a person or a share, participation,
3 21 or other interest in a person or in property or an enterprise
3 22 of a person, which is, or is of a type, dealt in or traded on
3 23 financial markets, or which is recognized in any area in which
3 24 it is issued or dealt in as a medium for investment; or

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

3 30 As context requires, the term means either the interest
3 31 itself or the means by which a person's claim to it is
3 32 evidenced, including a certificated or uncertificated
3 33 security, a security certificate, or a security entitlement.

3 34 j. "Good faith", for purposes of the obligation of good
3 35 faith in the performance or enforcement of contracts or duties
4 1 within this Article, means honesty in fact and the observance
4 2 of reasonable commercial standards of fair dealing.

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

4 7 granting a power to assign, transfer, or redeem it.
4 8 1. "Instruction" means a notification communicated to the
4 9 issuer of an uncertificated security which directs that the
4 10 transfer of the security be registered or that the security be
4 11 redeemed.

4 12 m. "Registered form", as applied to a certificated
4 13 security, means a form in which:

4 14 (1) the security certificate specifies a person entitled
4 15 to the security; and

4 16 (2) a transfer of the security may be registered upon
4 17 books maintained for that purpose by or on behalf of the
4 18 issuer, or the security certificate so states.

4 19 n. "Securities intermediary" means:

4 20 (1) a clearing corporation; or

4 21 (2) a person, including a bank or broker, that in the
4 22 ordinary course of its business maintains securities accounts
4 23 for others and is acting in that capacity.

4 24 o. "Security", except as otherwise provided in section
4 25 554.8103, means an obligation of an issuer or a share,
4 26 participation, or other interest in an issuer or in property
4 27 or an enterprise of an issuer:

4 28 (1) which is represented by a security certificate in
4 29 bearer or registered form, or the transfer of which may be
4 30 registered upon books maintained for that purpose by or on
4 31 behalf of the issuer;

4 32 (2) which is one of a class or series or by its terms is
4 33 divisible into a class or series of shares, participations,
4 34 interests, or obligations; and

4 35 (3) which:

5 1 (a) is, or is of a type, dealt in or traded on securities
5 2 exchanges or securities markets; or

5 3 (b) is a medium for investment and by its terms expressly
5 4 provides that it is a security governed by this Article.

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

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

5 10 r. "Uncertificated security" means a security that is not
5 11 represented by a certificate.

5 12 2. Other definitions applying to this Article and the
5 13 sections in which they appear are:

5 14 Appropriate person Section 554.8107

5 15 Control Section 554.8106

5 16 Delivery Section 554.8301

5 17 Investment company

5 18 security Section 554.8103

5 19 Issuer Section 554.8201

5 20 Overissue Section 554.8210

5 21 Protected purchaser Section 554.8303

5 22 Securities account Section 554.8501

5 23 3. In addition, Article 1 contains general definitions and
5 24 principles of construction and interpretation applicable
5 25 throughout this Article.

5 26 4. The characterization of a person, business, or
5 27 transaction for purposes of this Article does not determine
5 28 the characterization of the person, business, or transaction
5 29 for purposes of any other law, regulation, or rule.

5 30 Sec. 6. Section [554.8103](#), Code 1995, is amended by
5 31 striking the section and inserting in lieu thereof the
5 32 following:

5 33 554.8103 RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS
5 34 AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS.

5 35 1. A share or similar equity interest issued by a
6 1 corporation, business trust, joint stock company, or similar
6 2 entity is a security.

6 3 2. An "investment company security" is a security.

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

6 12 3. An interest in a partnership or limited liability
6 13 company is not a security unless it is dealt in or traded on
6 14 securities exchanges or in securities markets, its terms
6 15 expressly provide that it is a security governed by this
6 16 Article, or it is an investment company security. However, an
6 17 interest in a partnership or limited liability company is a
6 18 financial asset if it is held in a securities account.

6 19 4. A writing that is a security certificate is governed by
6 20 this Article and not by Article 3, even though it also meets
6 21 the requirements of that Article. However, a negotiable
6 22 instrument governed by Article 3 is a financial asset if it is
6 23 held in a securities account.

6 24 5. An option or similar obligation issued by a clearing
6 25 corporation to its participants is not a security, but is a
6 26 financial asset.

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

6 29 Sec. 7. Section [554.8104](#), Code 1995, is amended by
6 30 striking the section and inserting in lieu thereof the
6 31 following:

6 32 554.8104 ACQUISITION OF SECURITY OR FINANCIAL ASSET OR
6 33 INTEREST THEREIN.

6 34 1. A person acquires a security or an interest therein,
6 35 under this Article, if:

7 1 a. the person is a purchaser to whom a security is
7 2 delivered pursuant to section 554.8301; or

7 3 b. the person acquires a security entitlement to the
7 4 security pursuant to section 554.8501.

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

7 8 3. A person who acquires a security entitlement to a
7 9 security or other financial asset has the rights specified in
7 10 Part 5, but is a purchaser of any security, security
7 11 entitlement, or other financial asset held by the securities
7 12 intermediary only to the extent provided in section 554.8503.

7 13 4. Unless the context shows that a different meaning is
7 14 intended, a person who is required by other law, regulation,
7 15 rule, or agreement to transfer, deliver, present, surrender,
7 16 exchange, or otherwise put in the possession of another person
7 17 a security or financial asset satisfies that requirement by
7 18 causing the other person to acquire an interest in the
7 19 security or financial asset pursuant to subsection 1 or 2.

7 20 Sec. 8. Section [554.8105](#), Code 1995, is amended by
7 21 striking the section and inserting in lieu thereof the
7 22 following:

7 23 554.8105 NOTICE OF ADVERSE CLAIM.

7 24 1. A person has notice of an adverse claim if:

7 25 a. the person knows of the adverse claim;

7 26 b. the person is aware of facts sufficient to indicate
7 27 that there is a significant probability that the adverse claim
7 28 exists and deliberately avoids information that would
7 29 establish the existence of the adverse claim; or

7 30 c. the person has a duty, imposed by statute or
7 31 regulation, to investigate whether an adverse claim exists,
7 32 and the investigation so required would establish the
7 33 existence of the adverse claim.

7 34 2. Having knowledge that a financial asset or interest
7 35 therein is or has been transferred by a representative imposes

8 1 no duty of inquiry into the rightfulness of a transaction and
8 2 is not notice of an adverse claim. However, a person who
8 3 knows that a representative has transferred a financial asset
8 4 or interest therein in a transaction that is, or whose
8 5 proceeds are being used, for the individual benefit of the
8 6 representative or otherwise in breach of duty has notice of an
8 7 adverse claim.

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

8 14 a. one year after a date set for presentment or surrender
8 15 for redemption or exchange; or

8 16 b. six months after a date set for payment of money
8 17 against presentation or surrender of the certificate, if money
8 18 was available for payment on that date.

8 19 4. A purchaser of a certificated security has notice of an
8 20 adverse claim if the security certificate:

8 21 a. whether in bearer or registered form, has been indorsed
8 22 "for collection" or "for surrender" or for some other purpose
8 23 not involving transfer; or

8 24 b. is in bearer form and has on it an unambiguous
8 25 statement that it is the property of a person other than the
8 26 transferor, but the mere writing of a name on the certificate
8 27 is not such a statement.

8 28 5. Filing of a financing statement under Article 9 is not
8 29 notice of an adverse claim to a financial asset.

8 30 Sec. 9. Section [554.8106](#), Code 1995, is amended by
8 31 striking the section and inserting in lieu thereof the
8 32 following:

8 33 554.8106 CONTROL.

8 34 1. A purchaser has "control" of a certificated security in
8 35 bearer form if the certificated security is delivered to the
9 1 purchaser.

9 2 2. A purchaser has "control" of a certificated security in
9 3 registered form if the certificated security is delivered to
9 4 the purchaser, and:

9 5 a. the certificate is indorsed to the purchaser or in
9 6 blank by an effective indorsement; or

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

9 10 3. A purchaser has "control" of an uncertificated security
9 11 if:

9 12 a. the uncertificated security is delivered to the
9 13 purchaser; or

9 14 b. the issuer has agreed that it will comply with
9 15 instructions originated by the purchaser without further
9 16 consent by the registered owner.

9 17 4. A purchaser has "control" of a security entitlement if:

9 18 a. the purchaser becomes the entitlement holder; or

9 19 b. the securities intermediary has agreed that it will
9 20 comply with entitlement orders originated by the purchaser
9 21 without further consent by the entitlement holder.

9 22 5. If an interest in a security entitlement is granted by
9 23 the entitlement holder to the entitlement holder's own
9 24 securities intermediary, the securities intermediary has
9 25 control.

9 26 6. A purchaser who has satisfied the requirements of
9 27 subsection 3, paragraph "b", or subsection 4, paragraph "b",
9 28 has control even if the registered owner in the case of
9 29 subsection 3, paragraph "b", or the entitlement holder in the
9 30 case of subsection 4, paragraph "b", retains the right to make
9 31 substitutions for the uncertificated security or security
9 32 entitlement, to originate instructions or entitlement orders

9 33 to the issuer or securities intermediary, or otherwise to deal
9 34 with the uncertificated security or security entitlement.

9 35 7. An issuer or a securities intermediary may not enter
10 1 into an agreement of the kind described in subsection 3,
10 2 paragraph "b", or subsection 4, paragraph "b", without the
10 3 consent of the registered owner or entitlement holder, but an
10 4 issuer or a securities intermediary is not required to enter
10 5 into such an agreement even though the registered owner or
10 6 entitlement holder so directs. An issuer or securities
10 7 intermediary that has entered into such an agreement is not
10 8 required to confirm the existence of the agreement to another
10 9 party unless requested to do so by the registered owner or
10 10 entitlement holder.

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

10 14 554.8107 WHETHER INDORSEMENT, INSTRUCTION, OR ENTITLEMENT
10 15 ORDER IS EFFECTIVE.

10 16 1. "Appropriate person" means:

10 17 a. with respect to an indorsement, the person specified by
10 18 a security certificate or by an effective special indorsement
10 19 to be entitled to the security;

10 20 b. with respect to an instruction, the registered owner of
10 21 an uncertificated security;

10 22 c. with respect to an entitlement order, the entitlement
10 23 holder;

10 24 d. if the person designated in paragraph "a", "b", or "c"
10 25 is deceased, the designated person's successor taking under
10 26 other law or the designated person's personal representative
10 27 acting for the estate of the decedent; or

10 28 e. if the person designated in paragraph "a", "b", or "c"
10 29 lacks capacity, the designated person's guardian, conservator,
10 30 or other similar representative who has power under other law
10 31 to transfer the security or financial asset.

10 32 2. An indorsement, instruction, or entitlement order is
10 33 effective if:

10 34 a. it is made by the appropriate person;

10 35 b. it is made by a person who has power under the law of
11 1 agency to transfer the security or financial asset on behalf
11 2 of the appropriate person, including, in the case of an
11 3 instruction or entitlement order, a person who has control
11 4 under section 554.8106, subsection 3, paragraph "b", or
11 5 subsection 4, paragraph "b"; or

11 6 c. the appropriate person has ratified it or is otherwise
11 7 precluded from asserting its ineffectiveness.

11 8 3. An indorsement, instruction, or entitlement order made
11 9 by a representative is effective even if:

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

11 15 b. the representative's action in making the indorsement,
11 16 instruction, or entitlement order or using the proceeds of the
11 17 transaction is otherwise a breach of duty.

11 18 4. If a security is registered in the name of or specially
11 19 indorsed to a person described as a representative, or if a
11 20 securities account is maintained in the name of a person
11 21 described as a representative, an indorsement, instruction, or
11 22 entitlement order made by the person is effective even though
11 23 the person is no longer serving in the described capacity.

11 24 5. Effectiveness of an indorsement, instruction, or
11 25 entitlement order is determined as of the date the
11 26 indorsement, instruction, or entitlement order is made, and an
11 27 indorsement, instruction, or entitlement order does not become
11 28 ineffective by reason of any later change of circumstances.

11 29 Sec. 11. Section [554.8108](#), Code 1995, is amended by

11 30 striking the section and inserting in lieu thereof the
11 31 following:

11 32 554.8108 WARRANTIES IN DIRECT HOLDING.

11 33 1. A person who transfers a certificated security to a
11 34 purchaser for value warrants to the purchaser, and an
11 35 indorser, if the transfer is by indorsement, warrants to any
12 1 subsequent purchaser, that:

12 2 a. the certificate is genuine and has not been materially
12 3 altered;

12 4 b. the transferor or indorser does not know of any fact
12 5 that might impair the validity of the security;

12 6 c. there is no adverse claim to the security;

12 7 d. the transfer does not violate any restriction on
12 8 transfer;

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

12 13 f. the transfer is otherwise effective and rightful.

12 14 2. A person who originates an instruction for registration
12 15 of transfer of an uncertificated security to a purchaser for
12 16 value warrants to the purchaser that:

12 17 a. the instruction is made by an appropriate person, or if
12 18 the instruction is by an agent, the agent has actual authority
12 19 to act on behalf of the appropriate person;

12 20 b. the security is valid;

12 21 c. there is no adverse claim to the security; and

12 22 d. at the time the instruction is presented to the issuer:

12 23 (1) the purchaser will be entitled to the registration of
12 24 transfer;

12 25 (2) the transfer will be registered by the issuer free
12 26 from all liens, security interests, restrictions, and claims
12 27 other than those specified in the instruction;

12 28 (3) the transfer will not violate any restriction on
12 29 transfer; and

12 30 (4) the requested transfer will otherwise be effective and
12 31 rightful.

12 32 3. A person who transfers an uncertificated security to a
12 33 purchaser for value and does not originate an instruction in
12 34 connection with the transfer warrants that:

12 35 a. the uncertificated security is valid;

13 1 b. there is no adverse claim to the security;

13 2 c. the transfer does not violate any restriction on
13 3 transfer; and

13 4 d. the transfer is otherwise effective and rightful.

13 5 4. A person who indorses a security certificate warrants
13 6 to the issuer that:

13 7 a. there is no adverse claim to the security; and

13 8 b. the indorsement is effective.

13 9 5. A person who originates an instruction for registration
13 10 of transfer of an uncertificated security warrants to the
13 11 issuer that:

13 12 a. the instruction is effective; and

13 13 b. at the time the instruction is presented to the issuer
13 14 the purchaser will be entitled to the registration of
13 15 transfer.

13 16 6. A person who presents a certificated security for
13 17 registration of transfer or for payment or exchange warrants
13 18 to the issuer that the person is entitled to the registration,
13 19 payment, or exchange, but a purchaser for value and without
13 20 notice of adverse claims to whom transfer is registered
13 21 warrants only that the person has no knowledge of any
13 22 unauthorized signature in a necessary indorsement.

13 23 7. If a person acts as agent of another in delivering a
13 24 certificated security to a purchaser, the identity of the
13 25 principal was known to the person to whom the certificate was
13 26 delivered, and the certificate delivered by the agent was

13 27 received by the agent from the principal or received by the
13 28 agent from another person at the direction of the principal,
13 29 the person delivering the security certificate warrants only
13 30 that the delivering person has authority to act for the
13 31 principal and does not know of any adverse claim to the
13 32 certificated security.

13 33 8. A secured party who redelivers a security certificate
13 34 received, or after payment and on order of the debtor delivers
13 35 the security certificate to another person, makes only the
14 1 warranties of an agent under subsection 7.

14 2 9. Except as otherwise provided in subsection 7, a broker
14 3 acting for a customer makes to the issuer and a purchaser the
14 4 warranties provided in subsections 1 through 6. A broker that
14 5 delivers a security certificate to its customer, or causes its
14 6 customer to be registered as the owner of an uncertificated
14 7 security, makes to the customer the warranties provided in
14 8 subsection 1 or 2, and has the rights and privileges of a
14 9 purchaser under this section. The warranties of and in favor
14 10 of the broker acting as an agent are in addition to applicable
14 11 warranties given by and in favor of the customer.

14 12 Sec. 12. NEW SECTION. 554.8109 WARRANTIES IN INDIRECT
14 13 HOLDING.

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

14 17 a. the entitlement order is made by an appropriate person,
14 18 or if the entitlement order is by an agent, the agent has
14 19 actual authority to act on behalf of the appropriate person;
14 20 and

14 21 b. there is no adverse claim to the security entitlement.

14 22 2. A person who delivers a security certificate to a
14 23 securities intermediary for credit to a securities account or
14 24 originates an instruction with respect to an uncertificated
14 25 security directing that the uncertificated security be
14 26 credited to a securities account makes to the securities
14 27 intermediary the warranties specified in section 554.8108,
14 28 subsection 1 or 2.

14 29 3. If a securities intermediary delivers a security
14 30 certificate to its entitlement holder or causes its
14 31 entitlement holder to be registered as the owner of an
14 32 uncertificated security, the securities intermediary makes to
14 33 the entitlement holder the warranties specified in section
14 34 554.8108, subsection 1 or 2.

14 35 Sec. 13. NEW SECTION. 554.8110 APPLICABILITY - CHOICE
15 1 OF LAW.

15 2 1. The local law of the issuer's jurisdiction, as
15 3 specified in subsection 4, governs:

15 4 a. the validity of a security;

15 5 b. the rights and duties of the issuer with respect to
15 6 registration of transfer;

15 7 c. the effectiveness of registration of transfer by the
15 8 issuer;

15 9 d. whether the issuer owes any duties to an adverse
15 10 claimant to a security; and

15 11 e. whether an adverse claim can be asserted against a
15 12 person to whom transfer of a certificated or uncertificated
15 13 security is registered or a person who obtains control of an
15 14 uncertificated security.

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

15 17 a. acquisition of a security entitlement from the
15 18 securities intermediary;

15 19 b. the rights and duties of the securities intermediary
15 20 and entitlement holder arising out of a security entitlement;

15 21 c. whether the securities intermediary owes any duties to
15 22 an adverse claimant to a security entitlement; and

15 23 d. whether an adverse claim can be asserted against a

15 24 person who acquires a security entitlement from the securities
15 25 intermediary or a person who purchases a security entitlement
15 26 or interest therein from an entitlement holder.

15 27 3. The local law of the jurisdiction in which a security
15 28 certificate is located at the time of delivery governs whether
15 29 an adverse claim can be asserted against a person to whom the
15 30 security certificate is delivered.

15 31 4. "Issuer's jurisdiction" means the jurisdiction under
15 32 which the issuer of the security is organized or, if permitted
15 33 by the law of that jurisdiction, the law of another
15 34 jurisdiction specified by the issuer. An issuer organized
15 35 under the law of this state may specify the law of another
16 1 jurisdiction as the law governing the matters specified in
16 2 subsection 1, paragraphs "b" through "e".

16 3 5. The following rules determine a "securities
16 4 intermediary's jurisdiction" for purposes of this section:

16 5 a. if an agreement between the securities intermediary and
16 6 its entitlement holder specifies that it is governed by the
16 7 law of a particular jurisdiction, that jurisdiction is the
16 8 securities intermediary's jurisdiction.

16 9 b. if an agreement between the securities intermediary and
16 10 its entitlement holder does not specify the governing law as
16 11 provided in paragraph "a", but expressly specifies that the
16 12 securities account is maintained at an office in a particular
16 13 jurisdiction, that jurisdiction is the securities
16 14 intermediary's jurisdiction.

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

16 21 d. if an agreement between the securities intermediary and
16 22 its entitlement holder does not specify a jurisdiction as
16 23 provided in paragraph "a" or "b" and an account statement does
16 24 not identify an office serving the entitlement holder's
16 25 account as provided in paragraph "c", the securities
16 26 intermediary's jurisdiction is the jurisdiction in which is
16 27 located the chief executive office of the securities
16 28 intermediary.

16 29 6. A securities intermediary's jurisdiction is not
16 30 determined by the physical location of certificates
16 31 representing financial assets, or by the jurisdiction in which
16 32 is organized the issuer of the financial asset with respect to
16 33 which an entitlement holder has a security entitlement, or by
16 34 the location of facilities for data processing or other record
16 35 keeping concerning the account.

17 1 Sec. 14. NEW SECTION. 554.8111 CLEARING CORPORATION
17 2 RULES.

17 3 A rule adopted by a clearing corporation governing rights
17 4 and obligations among the clearing corporation and its
17 5 participants in the clearing corporation is effective even if
17 6 the rule conflicts with this Article and affects another party
17 7 who does not consent to the rule.

17 8 Sec. 15. NEW SECTION. 554.8112 CREDITOR'S LEGAL PROCESS.

17 9 1. The interest of a debtor in a certificated security may
17 10 be reached by a creditor only by actual seizure of the
17 11 security certificate by the officer making the attachment or
17 12 levy, except as otherwise provided in subsection 4. However,
17 13 a certificated security for which the certificate has been
17 14 surrendered to the issuer may be reached by a creditor by
17 15 legal process upon the issuer.

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

17 20 3. The interest of a debtor in a security entitlement may

17 21 be reached by a creditor only by legal process upon the
17 22 securities intermediary with whom the debtor's securities
17 23 account is maintained, except as otherwise provided in
17 24 subsection 4.

17 25 4 The interest of a debtor in a certificated security for
17 26 which the certificate is in the possession of a secured party,
17 27 or in an uncertificated security registered in the name of a
17 28 secured party, or a security entitlement maintained in the
17 29 name of a secured party, may be reached by a creditor by legal
17 30 process upon the secured party.

17 31 5. A creditor whose debtor is the owner of a certificated
17 32 security, uncertificated security, or security entitlement is
17 33 entitled to aid from a court of competent jurisdiction, by
17 34 injunction or otherwise, in reaching the certificated
17 35 security, uncertificated security, or security entitlement or
18 1 in satisfying the claim by means allowed at law or in equity
18 2 in regard to property that cannot readily be reached by other
18 3 legal process.

18 4 Sec. 16. NEW SECTION. 554.8113 STATUTE OF FRAUDS
18 5 INAPPLICABLE.

18 6 A contract or modification of a contract for the sale or
18 7 purchase of a security is enforceable whether or not there is
18 8 a writing signed or record authenticated by a party against
18 9 whom enforcement is sought, even if the contract or
18 10 modification is not capable of performance within one year of
18 11 its making.

18 12 Sec. 17. NEW SECTION. 554.8114 EVIDENTIARY RULES
18 13 CONCERNING CERTIFICATED SECURITIES.

18 14 The following rules apply in an action on a certificated
18 15 security against the issuer:

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

18 19 2. If the effectiveness of a signature is put in issue,
18 20 the burden of establishing effectiveness is on the party
18 21 claiming under the signature, but the signature is presumed to
18 22 be genuine or authorized.

18 23 3. If signatures on a security certificate are admitted or
18 24 established, production of the certificate entitles a holder
18 25 to recover on it unless the defendant establishes a defense or
18 26 a defect going to the validity of the security.

18 27 4. If it is shown that a defense or defect exists, the
18 28 plaintiff has the burden of establishing that the plaintiff or
18 29 some person under whom the plaintiff claims is a person
18 30 against whom the defense or defect cannot be asserted.

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

18 33 A securities intermediary that has transferred a financial
18 34 asset pursuant to an effective entitlement order, or a broker
18 35 or other agent or bailee that has dealt with a financial asset
19 1 at the direction of its customer or principal, is not liable
19 2 to a person having an adverse claim to the financial asset,
19 3 unless the securities intermediary, or broker or other agent
19 4 or bailee:

19 5 1. took the action after it had been served with an
19 6 injunction, restraining order, or other legal process
19 7 enjoining it from doing so, issued by a court of competent
19 8 jurisdiction, and had a reasonable opportunity to act on the
19 9 injunction, restraining order, or other legal process; or

19 10 2. acted in collusion with the wrongdoer in violating the
19 11 rights of the adverse claimant; or

19 12 3. in the case of a security certificate that has been
19 13 stolen, acted with notice of the adverse claim.

19 14 PART 2
19 15 ISSUE AND ISSUER

19 16 Sec. 19. Section [554.8201](#), Code 1995, is amended to read
19 17 as follows:

19 18 554.8201 "ISSUER".
19 19 1. With respect to

~~obligations~~
- an obligation on or
19 20

~~defenses~~
- a defense to a security, an "issuer" includes a
19 21 person

~~who~~
- that:
19 22 a. places or authorizes the placing of

~~that person's~~
- its
19 23 name on a

~~certificated~~
- security

~~(otherwise~~
- certificate, other
19 24 than as authenticating trustee, registrar, transfer agent, or
19 25 the like

~~)~~
- to evidence

~~that it represents~~
- a share,
19 26 participation, or other interest in

~~that person's~~
- its property
19 27 or in an enterprise, or to evidence

~~that person's~~
- its duty to
19 28 perform an obligation represented by the

~~certificated security~~
-
19 29 certificate;
19 30 b. creates

~~shares~~
- a share,

~~participations~~
- participation or
19 31 other

~~interests~~
- interest in

~~the person's~~
- its property or in an
19 32 enterprise, or undertakes

~~obligations~~
- an obligation,

~~which~~
-
19 33

~~shares, participations, interests, or obligations are~~
- that is
19 34 an uncertificated
.
~~securities~~
- security;
19 35 c. directly or indirectly creates a fractional
.
~~interests~~
-
20 1 interest in
.
~~that person's~~
- its rights or property,
.
~~which~~
- if the
20 2 fractional
.
~~interests are~~
- interest is represented by
20 3
.
~~certificated securities~~
- security certificate; or
20 4 d. becomes responsible for, or in place of,
.
~~any other~~
-
20 5 another person described as an issuer in this section.
20 6 2. With respect to
.
~~obligations~~
- an obligation on or
20 7
.
~~defenses~~
- defense to a security, a guarantor is an issuer to
20 8 the extent of
.
~~the guarantor's guaranty~~
- its guaranty, whether
20 9 or not
.
~~the guarantor's~~
- its guaranty, whether or not its
20 10 obligation is noted on a
.
~~certificated~~
- security
.
~~or on~~
-
20 11
.
~~statements of uncertificated securities sent pursuant to~~
-
20 12
.
~~section 554.8408~~
- certificate.
20 13 3. With respect to a registration of a transfer,
.
~~pledge,~~
-
20 14

~~or release (Part 4 of this Article), "issuer"~~

~~- issuer means a~~

20 15 person on whose behalf transfer books are maintained.

20 16 Sec. 20. Section [554.8202](#), Code 1995, is amended to read

20 17 as follows:

20 18 554.8202 ISSUER'S RESPONSIBILITY AND DEFENSES - NOTICE OF

20 19 DEFECT OR DEFENSE.

20 20 1. Even against a purchaser for value and without notice,

20 21 the terms of a certificated security include

~~—:~~

~~-~~
20 22

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

~~-~~
20 23

~~—security;~~

~~-~~
20 24

~~b. if the security is uncertificated, those contained in~~

~~-~~
20 25

~~the initial transaction statement sent to such purchaser, or~~

~~-~~
20 26

~~if the purchaser's interest is transferred to the purchaser~~

~~-~~
20 27

~~other than by registration of transfer, pledge, or release,~~

~~-~~
20 28

~~the initial transaction statement sent to the registered owner~~

~~-~~
20 29

~~or registered pledgee; and~~

~~-~~
20 30

~~c. those made part of the security by reference, on the~~

~~-~~
20 31

~~certificated security or in the initial transaction statement,~~

~~-~~
20 32 terms stated on the certificate and terms made part of the

20 33 security by reference on the certificate to another

20 34 instrument, indenture, or document or to a constitution,

20 35 statute, ordinance, rule, regulation, order, or the like, to

21 1 the extent

~~—that~~

~~-~~ the terms referred to do not conflict with

~~—the~~

~~-~~
21 2 terms stated on the

~~—certificated security or contained in the~~

21 3

~~initial statement~~

- certificate. A reference under this

21 4

~~paragraph~~

- subsection does not of itself charge a purchaser for

21 5 value with notice of a defect going to the validity of the

21 6 security, even

~~though the certificated security or statement~~

21 7 if the certificate expressly states that a person accepting it

21 8 admits notice. The terms of an uncertificated security,

21 9 include those stated in any instrument, indenture, or document

21 10 or in a constitution, statute, ordinance, rule, regulation,

21 11 order, or the like pursuant to which the security is issued.

21 12 2. The following rules apply if an issuer asserts that a

21 13 security is not valid:

21 14 a. A

~~certificated~~

- security

~~in the hands of a purchaser for~~

21 15

~~value or an uncertificated security as to which an initial~~

21 16

~~transaction statement has been sent to a purchaser for value,~~

21 17 other than

~~a security~~

- one issued by a government or

21 18 governmental subdivision, agency, or

~~unit~~

- instrumentality,

21 19 even though issued with a defect going to its validity, is

21 20 valid

~~with respect to the~~

- in the hands of a purchaser

~~if the~~

21 21

~~purchaser is~~

- for value and without notice of the particular

21 22 defect unless the defect involves a violation of a

21 23 constitutional

~~provisions, in which~~

- provision. In that case,

21 24 the security is valid

~~with respect to a subsequent~~

- in the

21 25 hands of a purchaser for value and without notice of the

21 26 defect, other than one who takes by original issue.

21 27 b.

~~This subsection~~

- Paragraph "a" applies to an issuer that
21 28 is a government or governmental subdivision, agency, or

~~unit~~

-
21 29 instrumentality only if

~~either~~

- there has been substantial
21 30 compliance with the legal requirements governing the issue or
21 31 the issuer has received a substantial consideration for the
21 32 issue as a whole or for the particular security and a stated
21 33 purpose of the issue is one for which the issuer has power to
21 34 borrow money or issue the security.

21 35 3. Except as otherwise provided in

~~the case of certain~~

-
22 1

~~unauthorized signatures (~~
~~section 554.8205~~

~~)~~

- , lack of
22 2 genuineness of a certificated security

~~or an initial~~

-
22 3

~~transaction statement~~

- is a complete defense, even against a
22 4 purchaser for value and without notice.
22 5 4. All other defenses of the issuer of a

~~certificated or~~

-
22 6

~~uncertificated~~

- security, including nondelivery and conditional
22 7 delivery of a certificated security, are ineffective against a
22 8 purchaser for value who has taken the certificated security
22 9 without notice of the particular defense.
22 10 5.

~~Nothing in this~~

- This section

~~shall be construed to~~

- does

22 11 not affect the right of a party to cancel a contract for a
22 12 security "when, as and if issued" or

~~a~~

- "when distributed"

22 13

~~contract to cancel the contract~~

- in the event of a material
22 14 change in the character of the security that is the subject of
22 15 the contract or in the plan or arrangement pursuant to which
22 16 the security is to be issued or distributed.

22 17 6. If a security is held by a securities intermediary
22 18 against whom an entitlement holder has a security entitlement
22 19 with respect to the security, the issuer may not assert any
22 20 defense that the issuer could not assert if the entitlement
22 21 holder held the security director.

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

22 24 554.8203 STALENESS AS NOTICE OF

~~DEFECTS~~

~~DEFECT OR~~

~~DEFENSES~~

~~-~~

22 25 DEFENSE.

22 26

~~1.~~

~~-~~ After an act or event, other than a call that has been
22 27 revoked, creating a right to immediate performance of the
22 28 principal obligation represented by a certificated security or
22 29

~~that sets~~

~~-~~ setting a date on or after which the security is to
22 30 be presented or surrendered for redemption or exchange, a
22 31 purchaser is charged with notice of any defect in its issue or
22 32 defense of the issuer, if the act or event:
22 33

~~a.~~

~~1.~~

~~the act or event is one requiring~~

~~-~~ requires the
22 34 payment of money, the delivery of a certificated

~~securities~~

~~-~~ 22 35 security, the registration of transfer of an uncertificated
23 1

~~securities~~

~~-~~ security, or any of

~~these~~

~~-~~ them on presentation or
23 2 surrender of the

~~certificated~~

~~-~~ security certificate, the

~~funds~~

~~-~~

23 3 money or

~~securities are~~

~~-~~ security is available on the date set
23 4 for payment or exchange, and the purchaser takes the security
23 5 more than one year after that date;

~~and~~

~~or~~

23 6

~~b.~~

~~2.~~

~~the act or event~~
- is not covered by

~~paragraph "a"~~

23 7 subsection 1 and the purchaser takes the security more than
23 8 two years after the date set for surrender or presentation or
23 9 the date on which performance became due.
23 10

~~2. A call that has been revoked is not within subsection~~

23 11

~~1.~~

23 12 Sec. 22. Section [554.8204](#), Code 1995, is amended to read
23 13 as follows:
23 14 554.8204 EFFECT OF ISSUER'S

~~RESTRICTIONS~~

~~RESTRICTION ON~~

23 15 TRANSFER.

23 16 A restriction on transfer of a security imposed by the
23 17 issuer, even

~~though~~

- if otherwise lawful, is ineffective
23 18 against

~~any~~

- a person without

~~actual~~

- knowledge of

~~it~~

- the

23 19 restriction unless:

23 20

~~a.~~

- 1. the security is certificated and the restriction is
23 21 noted conspicuously

~~thereon~~

- on the security certificate; or

23 22

~~b.~~

- 2. the security is uncertificated and

~~a notation of the~~

23 23

~~restriction is contained in the initial transaction statement~~

23 24

~~sent to the person or, if the person's interest is transferred~~

23 25

~~to the person other than by registration of transfer, pledge,~~

23 26

~~or release, the initial transaction statement sent to the~~

23 27

~~registered owner or the registered pledgee~~

~~the registered~~

23 28 owner has been notified of the restriction.

23 29 Sec. 23. Section [554.8205](#), Code 1995, is amended to read

23 30 as follows:

23 31 554.8205 EFFECT OF UNAUTHORIZED SIGNATURE ON

~~CERTIFICATED~~

23 32 SECURITY

~~OR INITIAL TRANSACTION STATEMENT~~

~~CERTIFICATE.~~

23 33 An unauthorized signature placed on a

~~certificated~~

~~security~~

23 34

~~prior to~~

~~certificate~~ or in the course of issue

~~or placed on an~~

23 35

~~initial transaction statement~~

~~is ineffective, but the~~

24 1 signature is effective in favor of a purchaser for value of

24 2 the certificated security

~~or a~~

~~if the purchaser~~

~~for value of~~

24 3

~~an uncertificated security to whom such initial transaction~~

24 4

~~statement has been sent~~

~~, if the purchaser is without notice of~~

24 5 the lack of authority and

~~if~~

~~the signing has been done by:~~

24 6

~~a.~~

~~1.~~ an authenticating trustee, registrar, transfer agent

24 7 or other person entrusted by the issuer with the signing of

24 8 the security

~~, of similar securities, or of initial transaction~~

24 9

~~statements~~

~~certificate or of similar security certificates, or~~

24 10 the immediate preparation for signing of any of them; or
24 11

~~b.~~
- 2. an employee of the issuer, or of any of the
24 12

~~foregoing~~
- persons listed in paragraph "a", entrusted with
24 13 responsible handling of the security

~~or initial transaction~~
-
24 14

~~statement~~
- certificate.
24 15 Sec. 24. Section [554.8206](#), Code 1995, is amended to read
24 16 as follows:
24 17 554.8206 COMPLETION OR ALTERATION OF

~~CERTIFICATED~~
- SECURITY
24 18

~~OR INITIAL TRANSACTION STATEMENT~~
- CERTIFICATE.
24 19 1. If a

~~certificated~~
- security certificate contains the
24 20 signatures necessary to its issue or transfer but is
24 21 incomplete in any other respect:
24 22 a. any person may complete it by filling in the blanks as
24 23 authorized; and
24 24 b. even

~~though~~
- if the blanks are incorrectly filled in,
24 25 the security certificate as completed is enforceable by a
24 26 purchaser who took it for value and without notice of the
24 27 incorrectness.
24 28 2. A complete

~~certificated~~
- security certificate that has
24 29 been improperly altered, even

~~though~~
- if fraudulently, remains
24 30 enforceable, but only according to its original terms.
24 31

~~3. If an initial transaction statement contains the~~
-
24 32

~~signatures necessary to its validity, but is incomplete in any~~
-
24 33

~~other respect:~~
-
24 34

~~a. any person may complete it by filling in the blanks as~~
-

~~authorized; and~~

25 1

~~b. even though the blanks are incorrectly filled in, the~~

25 2

~~statement as completed is effective in favor of the person to~~

25 3

~~whom it is sent if the person purchased the security referred~~

25 4

~~to therein for value and without notice of the incorrectness.~~

25 5

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

25 6

~~improperly altered, even though fraudulently, is effective in~~

25 7

~~favor of a purchaser to whom it has been sent, but only~~

25 8

~~according to its original terms.~~

25 9 Sec. 25. Section [554.8207](#), Code 1995, is amended to read
25 10 as follows:

25 11 554.8207 RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO
25 12 REGISTERED OWNERS.

25 13 1.

~~Prior to~~

~~Before~~ due presentment for registration of

25 14 transfer of a certificated security in registered form, or of

25 15 an instruction requesting registration of transfer of an

25 16 uncertificated security, the issuer or indenture trustee may

25 17 treat the registered owner as the person exclusively entitled

25 18 to vote,

~~to~~

~~receive~~ notifications, and otherwise

~~to~~

~~exercise~~

25 19 all the rights and powers of an owner.

25 20

~~2. Subject to the provisions of subsections 3, 4, and 6,~~

25 21

~~the issuer or indenture trustee may treat the registered owner~~

25 22

~~of an uncertificated security as the person exclusively~~

~~-~~
25 23

~~entitled to vote, to receive notifications, and otherwise to~~

~~-~~
25 24

~~exercise all the rights and powers of an owner.~~

~~-~~
25 25

~~- 3.~~

~~- 2.~~

~~The~~

~~This Article does not affect the liability of~~
25 26 ~~the registered owner of~~

~~an uncertificated~~

~~a security~~

~~that is~~

~~-~~
25 27

~~subject to a registered pledge is not entitled to registration~~

~~-~~
25 28

~~of transfer prior to the due presentment to the issuer of a~~

~~-~~
25 29

~~release instruction~~

~~for a call, assessment, or the like.~~

~~The~~

~~-~~
25 30

~~exercise of conversion rights with respect to a convertible~~

~~-~~
25 31

~~uncertificated security is a transfer within the meaning of~~

~~-~~
25 32

~~this section.~~

~~-~~
25 33

~~4. Upon due presentment of a transfer instruction from the~~

~~-~~
25 34

~~registered pledgee of an uncertificated security, the issuer~~

~~-~~
25 35

~~shall:~~

~~-~~
26 1

~~a. register the transfer of the security to the new owner~~

~~-~~
26 2

~~free of pledge, if the instruction specifies a new owner (who~~

~~26 3~~

~~may be the registered pledgee) and does not specify a pledgee;~~

~~26 4~~

~~b. register the transfer of the security to the new owner~~

~~26 5~~

~~subject to the interest of the existing pledgee, if the~~

~~26 6~~

~~instruction specifies a new owner and the existing pledgee; or~~

~~26 7~~

~~c. register the release of the security from the existing~~

~~26 8~~

~~pledge and register the pledge of the security to the other~~

~~26 9~~

~~pledgee, if the instruction specifies the existing owner and~~

~~26 10~~

~~another pledgee.~~

~~26 11~~

~~5. Continuity of perfection of a security interest is not~~

~~26 12~~

~~broken by registration of transfer under subsection (4)(b) or~~

~~26 13~~

~~by registration of release and pledge under subsection (4)(c),~~

~~26 14~~

~~if the security interest is assigned.~~

~~26 15~~

~~6. If an uncertificated security is subject to a~~

~~26 16~~

~~registered pledge:~~

~~26 17~~

~~a. any uncertificated securities issued in exchange for or~~

~~26 18~~

~~distributed with respect to the pledged security shall be~~

26 19

~~registered subject to the pledge;~~

26 20

~~b. any certificated securities issued in exchange for or~~

26 21

~~distributed with respect to the pledged security shall be~~

26 22

~~delivered to the registered pledgee; and~~

26 23

~~c. any money paid in exchange for or in redemption of part~~

26 24

~~or all of the security shall be paid to the registered~~

26 25

~~pledgee.~~

26 26

~~7. Nothing in this Article shall be construed to affect~~

26 27

~~the liability of the registered owner of a security for calls,~~

26 28

~~assessments, or the like.~~

26 29 Sec. 26. Section [554.8208](#), Code 1995, is amended to read
26 30 as follows:

26 31 554.8208 EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE,
26 32 REGISTRAR, OR TRANSFER AGENT.

26 33 1. A person

~~placing that person's signature upon~~
~~signing a~~

26 34

~~certificated~~
~~security~~

~~or an initial transaction statement~~

26 35 certificate, as authenticating trustee, registrar, transfer
27 1 agent, or the like, warrants to a purchaser for value of the
27 2 certificated security,

~~or a purchaser for value of an~~

27 3

~~uncertificated security to whom the initial transaction~~

27 4

~~statement has been sent,~~

- if the purchaser is without notice of

27 5 the particular defect, that:

27 6 a. the

~~certificated security or initial transaction~~

-

27 7

~~statement~~

- certificate is genuine;

27 8 b.

~~that~~

- the person's own participation in the issue

~~or~~

-

27 9

~~registration of transfer, pledge, or release~~

- of the security

27 10 is within

~~that~~

- the person's capacity and within the scope of

27 11 the authority received by

~~that~~

- the person from the issuer; and

27 12 c.

~~that~~

- the person has reasonable grounds to believe that

27 13 the certificated security is in the form and within the amount

27 14 the issuer is authorized to issue.

27 15 2. Unless otherwise agreed, a person

~~by so placing that~~

-

27 16

~~person's signature~~

- signing under subsection 1 does not assume

27 17 responsibility for the validity of the security in other

27 18 respects.

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

27 20 A lien in favor of an issuer upon a certificated security

27 21 is valid against a purchaser only if the right of the issuer

27 22 to the lien is noted conspicuously on the security

27 23 certificate.

27 24 Sec. 28. NEW SECTION. 554.8210 OVERISSUE.

27 25 1. In this section, "overissue" means the issue of

27 26 securities in excess of the amount the issuer has corporate

27 27 power to issue, but an overissue does not occur if appropriate

27 28 action has cured the overissue.

27 29 2. Except as otherwise provided in subsections 3 and 4,

27 30 the provisions of this Article which validate a security or

27 31 compel its issue or reissue do not apply to the extent that

27 32 validation, issue, or reissue would result in overissue.

27 33 3. If an identical security not constituting an overissue

27 34 is reasonably available for purchase, a person entitled to

27 35 issue or validation may compel the issuer to purchase the

28 1 security and deliver it if certificated or register its

28 2 transfer if uncertificated, against surrender of any security

28 3 certificate the person holds.

28 4 4. If a security is not reasonably available for purchase,

28 5 a person entitled to issue or validation may recover from the
28 6 issuer the price the person or the last purchaser for value
28 7 paid for it with interest from the date of the person's
28 8 demand.

28 9 PART 3

28 10 TRANSFER OF CERTIFICATED

28 11 AND UNCERTIFICATED SECURITIES

28 12 Sec. 29. Section [554.8301](#), Code 1995, is amended by
28 13 striking the section and inserting in lieu thereof the
28 14 following:

28 15 554.8301 DELIVERY.

28 16 1. Delivery of a certificated security to a purchaser
28 17 occurs when:

28 18 a. the purchaser acquires possession of the security
28 19 certificate;

28 20 b. another person, other than a securities intermediary,
28 21 either acquires possession of the security certificate on
28 22 behalf of the purchaser or, having previously acquired
28 23 possession of the certificate, acknowledges that it holds for
28 24 the purchaser; or

28 25 c. a securities intermediary acting on behalf of the
28 26 purchaser acquires possession of the security certificate,
28 27 only if the certificate is in registered form and has been
28 28 specially indorsed to the purchaser by an effective
28 29 indorsement.

28 30 2. Delivery of an uncertificated security to a purchaser
28 31 occurs when:

28 32 a. the issuer registers the purchaser as the registered
28 33 owner, upon original issue or registration of transfer; or

28 34 b. another person, other than a securities intermediary,
28 35 either becomes the registered owner of the uncertificated
29 1 security on behalf of the purchaser or, having previously
29 2 become the registered owner, acknowledges that it holds for
29 3 the purchaser.

29 4 Sec. 30. Section [554.8302](#), Code 1995, is amended by
29 5 striking the section and inserting in lieu thereof the
29 6 following:

29 7 554.8302 RIGHTS OF PURCHASER.

29 8 1. Except as otherwise provided in subsections 2 and 3,
29 9 upon delivery of a certificated or uncertificated security to
29 10 a purchaser, the purchaser acquires all rights in the security
29 11 that the transferor had or had power to transfer.

29 12 2. A purchaser of a limited interest acquires rights only
29 13 to the extent of the interest purchased.

29 14 3. A purchaser of a certificated security who as a
29 15 previous holder had notice of an adverse claim does not
29 16 improve its position by taking from a protected purchaser.

29 17 Sec. 31. Section [554.8303](#), Code 1995, is amended by
29 18 striking the section and inserting in lieu thereof the
29 19 following:

29 20 554.8303 PROTECTED PURCHASER.

29 21 1. "Protected purchaser" means a purchaser of a
29 22 certificated or uncertificated security, or of an interest
29 23 therein, who:

29 24 a. gives value;

29 25 b. does not have notice of any adverse claim to the
29 26 security; and

29 27 c. obtains control of the certificated or uncertificated
29 28 security.

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

29 32 Sec. 32. Section [554.8304](#), Code 1995, is amended by
29 33 striking the section and inserting in lieu thereof the
29 34 following:

29 35 554.8304 INDORSEMENT.

30 1 1. An indorsement may be in blank or special. An

30 2 indorsement in blank includes an indorsement to bearer. A
30 3 special indorsement specifies to whom a security is to be
30 4 transferred or who has power to transfer it. A holder may
30 5 convert a blank indorsement to a special indorsement.
30 6 2. An indorsement purporting to be only of part of a
30 7 security certificate representing units intended by the issuer
30 8 to be separately transferable is effective to the extent of
30 9 the indorsement.
30 10 3. An indorsement, whether special or in blank, does not
30 11 constitute a transfer until delivery of the certificate on
30 12 which it appears or, if the indorsement is on a separate
30 13 document, until delivery of both the document and the
30 14 certificate.
30 15 4. If a security certificate in registered form has been
30 16 delivered to a purchaser without a necessary indorsement, the
30 17 purchaser may become a protected purchaser only when the
30 18 indorsement is supplied. However, against a transferor, a
30 19 transfer is complete upon delivery and the purchaser has a
30 20 specifically enforceable right to have any necessary
30 21 indorsement supplied.
30 22 5. An indorsement of a security certificate in bearer form
30 23 may give notice of an adverse claim to the certificate, but it
30 24 does not otherwise affect a right to registration that the
30 25 holder possesses.
30 26 6. Unless otherwise agreed, a person making an indorsement
30 27 assumes only the obligations provided in section 554.8108 and
30 28 not an obligation that the security will be honored by the
30 29 issuer.
30 30 Sec. 33. Section [554.8305](#), Code 1995, is amended by
30 31 striking the section and inserting in lieu thereof the
30 32 following:
30 33 554.8305 INSTRUCTION.
30 34 1. If an instruction has been originated by an appropriate
30 35 person but is incomplete in any other respect, any person may
31 1 complete it as authorized and the issuer may rely on it as
31 2 completed, even though it has been completed incorrectly.
31 3 2. Unless otherwise agreed, a person initiating an
31 4 instruction assumes only the obligations imposed by section
31 5 554.8108 and not an obligation that the security will be
31 6 honored by the issuer.
31 7 Sec. 34. Section [554.8306](#), Code 1995, is amended by
31 8 striking the section and inserting in lieu thereof the
31 9 following:
31 10 554.8306 EFFECT OF GUARANTEEING SIGNATURE, INDORSEMENT, OR
31 11 INSTRUCTION.
31 12 1. A person who guarantees a signature of an indorser of a
31 13 security certificate warrants that at the time of signing:
31 14 a. the signature was genuine;
31 15 b. the signer was an appropriate person to indorse, or if
31 16 the signature is by an agent, the agent had actual authority
31 17 to act on behalf of the appropriate person; and
31 18 c. the signer had legal capacity to sign.
31 19 2. A person who guarantees a signature of the originator
31 20 of an instruction warrants that at the time of signing:
31 21 a. the signature was genuine;
31 22 b. the signer was an appropriate person to originate the
31 23 instruction, or if the signature is by an agent, the agent had
31 24 actual authority to act on behalf of the appropriate person,
31 25 if the person specified in the instruction as the registered
31 26 owner was, in fact, the registered owner, as to which fact the
31 27 signature guarantor does not make a warranty; and
31 28 c. the signer had legal capacity to sign.
31 29 3. A person who specially guarantees the signature of an
31 30 originator of an instruction makes the warranties of a
31 31 signature guarantor under subsection 2 and also warrants that
31 32 at the time the instruction is presented to the issuer:
31 33 a. the person specified in the instruction as the

31 34 registered owner of the uncertificated security will be the
31 35 registered owner; and

32 1 b. the transfer of the uncertificated security requested
32 2 in the instruction will be registered by the issuer free from
32 3 all liens, security interests, restrictions, and claims other
32 4 than those specified in the instruction.

32 5 4. A guarantor under subsections 1 and 2 or a special
32 6 guarantor under subsection 3 does not otherwise warrant the
32 7 rightfulness of the transfer.

32 8 5. A person who guarantees an indorsement of a security
32 9 certificate makes the warranties of a signature guarantor
32 10 under subsection 1 and also warrants the rightfulness of the
32 11 transfer in all respects.

32 12 6. A person who guarantees an instruction requesting the
32 13 transfer of an uncertificated security makes the warranties of
32 14 a special signature guarantor under subsection 3 and also
32 15 warrants the rightfulness of the transfer in all respects.

32 16 7. An issuer may not require a special guaranty of
32 17 signature, a guaranty of indorsement, or a guaranty of
32 18 instruction as a condition to registration of transfer.

32 19 8. The warranties under this section are made to a person
32 20 taking or dealing with the security in reliance on the
32 21 guaranty, and the guarantor is liable to the person for loss
32 22 resulting from their breach. An indorser or originator of an
32 23 instruction whose signature, indorsement, or instruction has
32 24 been guaranteed is liable to a guarantor for any loss suffered
32 25 by the guarantor as a result of breach of the warranties of
32 26 the guarantor.

32 27 Sec. 35. Section [554.8307](#), Code 1995, is amended by
32 28 striking the section and inserting in lieu thereof the
32 29 following:

32 30 554.8307 PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION
32 31 OF TRANSFER.

32 32 Unless otherwise agreed, the transferor of a security on
32 33 due demand shall supply the purchaser with proof of authority
32 34 to transfer or with any other requisite necessary to obtain
32 35 registration of the transfer of the security, but if the
33 1 transfer is not for value, a transferor need not comply unless
33 2 the purchaser pays the necessary expenses. If the transferor
33 3 fails within a reasonable time to comply with the demand, the
33 4 purchaser may reject or rescind the transfer.

33 5 PART 4
33 6 REGISTRATION

33 7 Sec. 36. Section [554.8401](#), Code 1995, is amended to read
33 8 as follows:

33 9 554.8401 DUTY OF ISSUER TO REGISTER TRANSFER

~~—, PLEDGE, OR~~

33 10

~~—RELEASE~~

33 11 1. If a certificated security in registered form is
33 12 presented to

~~—the~~

— an issuer with a request to register transfer
33 13 or an instruction is presented to

~~—the~~

— an issuer with a request
33 14 to register transfer,

~~—pledge, or release~~

— the issuer shall
33 15 register the transfer

~~, pledge, or release~~

- as requested if:

33 16 a.

~~the security is endorsed or the instruction was~~

33 17

~~originated by the appropriate person or persons (section~~

33 18

~~554.8308)~~

- under the terms of the security by the person

33 19 seeking registration of transfer is eligible to have the

33 20 security registered in its name;

33 21 b. the indorsement or instruction is made by the

33 22 appropriate person or by an agent who has actual authority to

33 23 act on behalf of the appropriate person;

33 24

~~b.~~

- c. reasonable assurance is given that

~~those~~

33 25

~~endorsements~~

- the indorsement or

~~instructions are~~

- instruction

33 26 is genuine and

~~effective~~

- authorized (section

~~554.8402~~

33 27 554.8403);

33 28

~~c. the issuer has no duty as to adverse claims or has~~

33 29

~~discharged the duty (section 554.8403);~~

33 30 d. any applicable law relating to the collection of taxes

33 31 has been complied with;

~~and~~

33 32 e. the transfer

~~, pledge, or release is in fact rightful or~~

33 33

~~is to a bona fide purchaser~~

- does not violate any restriction

33 34 on transfer imposed by the issuer in accordance with section

33 35 554.8204.

34 1 f. a demand that the issuer not register transfer has not

34 2 become effective under section 554.8403, or the issuer has

34 3 complied with section 554.8403, subsection 2, but no legal
34 4 process or indemnity bond is obtained as provided in section
34 5 554.8403, subsection 4; and
34 6 g. the transfer is in fact rightful or is to a protected
34 7 purchaser.
34 8 2. If an issuer is under a duty to register a transfer

~~7~~

34 9

~~pledge, or release~~
- of a security, the issuer is

~~also~~
- liable to

34 10

~~the~~
- a person presenting a certificated security or an
34 11 instruction for registration or

~~that~~
- to the person's principal
34 12 for loss resulting from

~~any~~
- unreasonable delay in registration
34 13 or

~~from~~
- failure or refusal to register the transfer

~~, pledge,~~

34 14

~~or release~~

34 15 Sec. 37. Section [554.8402](#), Code 1995, is amended to read
34 16 as follows:
34 17 554.8402 ASSURANCE THAT

~~ENDORSEMENTS AND INSTRUCTIONS ARE~~

34 18 INDORSEMENT OR INSTRUCTION IS EFFECTIVE.
34 19 1.

~~The~~
- An issuer may require the following assurance that
34 20 each necessary

~~endorsement of a certificated security~~

34 21 indorsement or each instruction

~~(section 554.8308)~~

- is genuine
34 22 and

~~effective~~

- authorized:
34 23 a. in all cases, a guarantee of the signature

~~(section~~

34 24

~~554.8312, subsection 1 or 2)~~

- of the person

~~endorsing a~~

34 25

~~certificated security~~

- making an indorsement or originating an

34 26 instruction including, in the case of an instruction,

~~a~~

34 27

~~warranty of the taxpayer identification number or, in the~~

34 28

~~absence thereof, other~~

- reasonable assurance of identity;

34 29 b. if the endorsement is made or the instruction is

34 30 originated by an agent, appropriate assurance of actual

34 31 authority to sign;

34 32 c. if the endorsement is made or the instruction is

34 33 originated by a fiduciary, pursuant to section 554.8107,

34 34 subsection 1, paragraph "d" or subsection 1, paragraph "e".

34 35 appropriate evidence of appointment or incumbency;

35 1 d. if there is more than one fiduciary, reasonable

35 2 assurance that all who are required to sign have done so; and

35 3 e. if the

~~endorsement~~

- indorsement is made or the

35 4 instruction is originated by a person not covered by

~~any of~~

35 5

~~the foregoing~~

- another provision of this subsection, assurance

35 6 appropriate to the case corresponding as nearly as may be to

35 7 the

~~foregoing~~

- provisions of this subsection.

35 8 2. An issuer may elect to require reasonable assurance

35 9 beyond that specified in this section.

35 10 3. In this section:

35 11

~~2.~~

- a.

~~A "guarantee~~

- "Guarantee of the signature"

~~in~~

35 12

~~subsection 1~~

- means a guarantee signed by or on behalf of a

35 13 person reasonably believed by the issuer to be responsible.

35 14

~~The~~

- An issuer may adopt standards with respect to
35 15 responsibility if they are not manifestly unreasonable.
35 16

~~3.~~

- b. "Appropriate evidence of appointment or incumbency"
35 17

~~in subsection 1~~

- means
35 18

~~a.~~

- (1) in the case of a fiduciary appointed or qualified
35 19 by a court, a certificate issued by or under the direction or
35 20 supervision of

~~that~~

- the court or an officer

~~of that court~~

-
35 21 thereof and dated within

~~one hundred eighty~~

- sixty days before
35 22 the date of presentation for transfer

~~, pledge, or release~~

-; or
35 23

~~b.~~

- (2) in any other case, a copy of a document showing the
35 24 appointment or a certificate issued by or on behalf of a
35 25 person reasonably believed by

~~the~~

- an issuer to be responsible
35 26 or, in the absence of that document or certificate, other
35 27 evidence the issuer reasonably

~~deemed by the issuer to be~~

-
35 28 considers appropriate.

~~The issuer may adopt standards with~~

-
35 29

~~respect to the evidence if they are not manifestly~~

-
35 30

~~unreasonable. The issuer is not charged with notice of the~~

-
35 31

~~contents of any document obtained pursuant to this paragraph~~

-
35 32

~~"b" except to the extent that the contents relate directly to~~

-
35 33

~~the appointment or incumbency.~~

35 34

~~4. The issuer may elect to require reasonable assurance~~

35 35

~~beyond that specified in this section, but if it does so and,~~

36 1

~~for a purpose other than that specified in subsection 3 "b",~~

36 2

~~both requires and obtains a copy of a will, trust, indenture,~~

36 3

~~articles of copartnership, bylaws, or other controlling~~

36 4

~~instrument, it is charged with notice of all matters contained~~

36 5

~~therein affecting the transfer, pledge, or release.~~

36 6 Sec. 38. Section [554.8403](#), Code 1995, is amended by
36 7 striking the section and inserting in lieu thereof the
36 8 following:

36 9 554.8403 DEMAND THAT ISSUER NOT REGISTER TRANSFER.

36 10 1. A person who is an appropriate person to make an
36 11 indorsement or originate an instruction may demand that the
36 12 issuer not register transfer of a security by communicating to
36 13 the issuer a notification that identifies the registered owner
36 14 and the issue of which the security is a part and provides an
36 15 address for communications directed to the person making the
36 16 demand. The demand is effective only if it is received by the
36 17 issuer at a time and in a manner affording the issuer
36 18 reasonable opportunity to act on it.

36 19 2. If a certificated security in registered form is
36 20 presented to an issuer with a request to register transfer or
36 21 an instruction is presented to an issuer with a request to
36 22 register transfer of an uncertificated security after a demand
36 23 that the issuer not register transfer has become effective,
36 24 the issuer shall promptly communicate to (1) the person who
36 25 initiated the demand at the address provided in the demand,
36 26 and (2) the person who presented the security for registration
36 27 of transfer or initiated the instruction requesting
36 28 registration of transfer a notification stating that:

36 29 a. the certificated security has been presented for
36 30 registration of transfer or the instruction for registration
36 31 of transfer of the uncertificated security has been received;

36 32 b. a demand that the issuer not register transfer had
36 33 previously been received; and

36 34 c. the issuer will withhold registration of transfer for a
36 35 period of time stated in the notification in order to provide
37 1 the person who initiated the demand an opportunity to obtain
37 2 legal process or an indemnity bond.

37 3 3. The period described in subsection 2, paragraph "c",
37 4 not exceed thirty days after the date of communication of the
37 5 notification. A shorter period may be specified by the issuer
37 6 if it is not manifestly unreasonable.

37 7 4. An issuer is not liable to a person who initiated a
37 8 demand that the issuer not register transfer for any loss the
37 9 person suffers as a result of registration of a transfer
37 10 pursuant to an effective indorsement or instruction if the
37 11 person who initiated the demand does not, within the time
37 12 stated in the issuer's communication, either:

37 13 a. obtain an appropriate restraining order, injunction, or
37 14 other process from a court of competent jurisdiction enjoining
37 15 the issuer from registering the transfer; or

37 16 b. file with the issuer an indemnity bond, sufficient in
37 17 the issuer's judgment to protect the issuer and any transfer
37 18 agent, registrar, or other agent of the issuer involved from
37 19 any loss it or they may suffer by refusing to register the
37 20 transfer.

37 21 5. This section does not relieve an issuer from liability
37 22 for registering transfer pursuant to an indorsement or
37 23 instruction that was not effective.

37 24 Sec. 39. Section [554.8404](#), Code 1995, is amended by
37 25 striking the section and inserting in lieu thereof the
37 26 following:

37 27 554.8404 WRONGFUL REGISTRATION.

37 28 1. Except as otherwise provided in section 554.8406, an
37 29 issuer is liable for wrongful registration of transfer if the
37 30 issuer has registered a transfer of a security to a person not
37 31 entitled to it, and the transfer was registered:

37 32 a. pursuant to an ineffective indorsement or instruction;

37 33 b. after a demand that the issuer not register transfer
37 34 became effective under section 554.8403, subsection 1, and the
37 35 issuer did not comply with section 554.8403, subsection 2;

38 1 c. after the issuer had been served with an injunction,
38 2 restraining order, or other legal process enjoining it from
38 3 registering the transfer, issued by a court of competent
38 4 jurisdiction, and the issuer had a reasonable opportunity to
38 5 act on the injunction, restraining order, or other legal
38 6 process; or

38 7 d. by an issuer acting in collusion with the wrongdoer.

38 8 2. An issuer that is liable for wrongful registration of
38 9 transfer under subsection 1 on demand shall provide the person
38 10 entitled to the security with a like certificated or
38 11 uncertificated security, and any payments or distributions
38 12 that the person did not receive as a result of the wrongful
38 13 registration. If an overissue would result, the issuer's
38 14 liability to provide the person with a like security is
38 15 governed by section 554.8210.

38 16 3. Except as otherwise provided in subsection 1 or in a
38 17 law relating to the collection of taxes, an issuer is not
38 18 liable to an owner or other person suffering loss as a result
38 19 of the registration of a transfer of a security if
38 20 registration was made pursuant to an effective indorsement or
38 21 instruction.

38 22 Sec. 40. Section [554.8405](#), Code 1995, is amended by
38 23 striking the section and inserting in lieu thereof the
38 24 following:

38 25 554.8405 REPLACEMENT OF LOST, DESTROYED, OR WRONGFULLY
38 26 TAKEN SECURITY CERTIFICATE.

38 27 1. If an owner of a certificated security, whether in
38 28 registered or bearer form, claims that the certificate has
38 29 been lost, destroyed, or wrongfully taken, the issuer shall
38 30 issue a new certificate if the owner:

38 31 a. so requests before the issuer has notice that the
38 32 certificate has been acquired by a protected purchaser;

38 33 b. files with the issuer a sufficient indemnity bond; and

38 34 c. satisfies other reasonable requirements imposed by the
38 35 issuer.

39 1 2. If, after the issue of a new security certificate, a
39 2 protected purchaser of the original certificate presents it
39 3 for registration of transfer, the issuer shall register the

39 4 transfer unless an overissue would result. In that case, the
39 5 issuer's liability is governed by section 554.8210. In
39 6 addition to any rights on the indemnity bond, an issuer may
39 7 recover the new certificate from a person to whom it was
39 8 issued or any person taking under that person, except a
39 9 protected purchaser.

39 10 Sec. 41. Section [554.8406](#), Code 1995, is amended by
39 11 striking the section and inserting in lieu thereof the
39 12 following:

39 13 554.8406 OBLIGATION TO NOTIFY ISSUER OF LOST, DESTROYED,
39 14 OR WRONGFULLY TAKEN SECURITY CERTIFICATE.

39 15 If a security certificate has been lost, apparently
39 16 destroyed, or wrongfully taken, and the owner fails to notify
39 17 the issuer of that fact within a reasonable time after the
39 18 owner has notice of it and the issuer registers a transfer of
39 19 the security before receiving notification, the owner may not
39 20 assert against the issuer a claim for registering the transfer
39 21 under section 554.8404 or a claim to a new security
39 22 certificate under section 554.8405.

39 23 Sec. 42. Section [554.8407](#), Code 1995, is amended by
39 24 striking the section and inserting in lieu thereof the
39 25 following:

39 26 554.8407 AUTHENTICATING TRUSTEE, TRANSFER AGENT, AND
39 27 REGISTRAR.

39 28 A person acting as authenticating trustee, transfer agent,
39 29 registrar, or other agent for an issuer in the registration of
39 30 a transfer of its securities, in the issue of new security
39 31 certificates or uncertificated securities, or in the
39 32 cancellation of surrendered security certificates has the same
39 33 obligation to the holder or owner of a certificated or
39 34 uncertificated security with regard to the particular
39 35 functions performed as the issuer has in regard to those
40 1 functions.

40 2 PART 5

40 3 SECURITY ENTITLEMENTS

40 4 Sec. 43. NEW SECTION. 554.8501 SECURITIES ACCOUNT -
40 5 ACQUISITION OF SECURITY ENTITLEMENT FROM SECURITIES
40 6 INTERMEDIARY.

40 7 1. "Securities account" means an account to which a
40 8 financial asset is or may be credited in accordance with an
40 9 agreement under which the person maintaining the account
40 10 undertakes to treat the person for whom the account is
40 11 maintained as entitled to exercise the rights that comprise
40 12 the financial asset.

40 13 2. Except as otherwise provided in subsections 4 and 5, a
40 14 person acquires a security entitlement if a securities
40 15 intermediary:

40 16 a. indicates by book entry that a financial asset has been
40 17 credited to the person's securities account;

40 18 b. receives a financial asset from the person or acquires
40 19 a financial asset for the person and, in either case, accepts
40 20 it for credit to the person's securities account; or

40 21 c. becomes obligated under other law, regulation, or rule
40 22 to credit a financial asset to the person's securities
40 23 account.

40 24 3. If a condition of subsection 2 has been met, a person
40 25 has a security entitlement even though the securities
40 26 intermediary does not itself hold the financial asset.

40 27 4. If a securities intermediary holds a financial asset
40 28 for another person, and the financial asset is registered in
40 29 the name of, payable to the order of, or specially indorsed to
40 30 the other person, and has not been indorsed to the securities
40 31 intermediary or in blank, the other person is treated as
40 32 holding the financial asset directly rather than as having a
40 33 security entitlement with respect to the financial asset.

40 34 5. Issuance of a security is not establishment of a
40 35 security entitlement.

41 1 Sec. 44. NEW SECTION. 554.8502 ASSERTION OF ADVERSE
41 2 CLAIM AGAINST ENTITLEMENT HOLDER.
41 3 An action based on an adverse claim to a financial asset,
41 4 whether framed in conversion, replevin, constructive trust,
41 5 equitable lien, or other theory, may not be asserted against a
41 6 person who acquires a security entitlement under section
41 7 554.8501 for value and without notice of the adverse claim.
41 8 Sec. 45. NEW SECTION. 554.8503 PROPERTY INTEREST OF
41 9 ENTITLEMENT HOLDER IN FINANCIAL ASSET HELD BY SECURITIES
41 10 INTERMEDIARY.
41 11 1. To the extent necessary for a securities intermediary
41 12 to satisfy all security entitlements with respect to a
41 13 particular financial asset, all interests in that financial
41 14 asset held by the securities intermediary are held by the
41 15 securities intermediary for the entitlement holders, are not
41 16 property of the securities intermediary, and are not subject
41 17 to claims of creditors of the securities intermediary, except
41 18 as otherwise provided in section 554.8511.
41 19 2. An entitlement holder's property interest with respect
41 20 to a particular financial asset under subsection 1 is a pro
41 21 rata property interest in all interests in that financial
41 22 asset held by the securities intermediary, without regard to
41 23 the time the entitlement holder acquired the security
41 24 entitlement or the time the securities intermediary acquired
41 25 the interest in that financial asset.
41 26 3. An entitlement holder's property interest with respect
41 27 to a particular financial asset under subsection 1 may be
41 28 enforced against the securities intermediary only by exercise
41 29 of the entitlement holder's rights under sections 554.8505
41 30 through 554.8508.
41 31 4. An entitlement holder's property interest with respect
41 32 to a particular financial asset under subsection 1 may be
41 33 enforced against a purchaser of the financial asset or
41 34 interest therein only if:
41 35 a. insolvency proceedings have been initiated by or
42 1 against the securities intermediary;
42 2 b. the securities intermediary does not have sufficient
42 3 interests in the financial asset to satisfy the security
42 4 entitlements of all of its entitlement holders to that
42 5 financial asset;
42 6 c. the securities intermediary violated its obligations
42 7 under section 554.8504 by transferring the financial asset or
42 8 interest therein to the purchaser; and
42 9 d. the purchaser is not protected under subsection 5. The
42 10 trustee or other liquidator, acting on behalf of all
42 11 entitlement holders having security entitlements with respect
42 12 to a particular financial asset, may recover the financial
42 13 asset, or interest therein, from the purchaser. If the
42 14 trustee or other liquidator elects not to pursue that right,
42 15 an entitlement holder whose security entitlement remains
42 16 unsatisfied has the right to recover its interest in the
42 17 financial asset from the purchaser.
42 18 5. An action based on the entitlement holder's property
42 19 interest with respect to a particular financial asset under
42 20 subsection 1, whether framed in conversion, replevin,
42 21 constructive trust, equitable lien, or other theory, may not
42 22 be asserted against any purchaser of a financial asset or
42 23 interest therein who gives value, obtains control, and does
42 24 not act in collusion with the securities intermediary in
42 25 violating the securities intermediary's obligations under
42 26 section 554.8504.
42 27 Sec. 46. NEW SECTION. 554.8504 DUTY OF SECURITIES
42 28 INTERMEDIARY TO MAINTAIN FINANCIAL ASSET.
42 29 1. A securities intermediary shall promptly obtain and
42 30 thereafter maintain a financial asset in a quantity
42 31 corresponding to the aggregate of all security entitlements it
42 32 has established in favor of its entitlement holders with

42 33 respect to that financial asset. The securities intermediary
42 34 may maintain those financial assets directly or through one or
42 35 more other securities intermediaries.

43 1 2. Except to the extent otherwise agreed by its
43 2 entitlement holder, a securities intermediary may not grant
43 3 any security interests in a financial asset it is obligated to
43 4 maintain pursuant to subsection 1.

43 5 3. A securities intermediary satisfies the duty in
43 6 subsection 1 if:

43 7 a. the securities intermediary acts with respect to the
43 8 duty as agreed upon by the entitlement holder and the
43 9 securities intermediary; or

43 10 b. in the absence of agreement, the securities
43 11 intermediary exercises due care in accordance with reasonable
43 12 commercial standards to obtain and maintain the financial
43 13 asset.

43 14 4. This section does not apply to a clearing corporation
43 15 that is itself the obligor of an option or similar obligation
43 16 to which its entitlement holders have security entitlements.

43 17 Sec. 47. NEW SECTION. 554.8505 DUTY OF SECURITIES
43 18 INTERMEDIARY WITH RESPECT TO PAYMENTS AND DISTRIBUTIONS.

43 19 1. A securities intermediary shall take action to obtain a
43 20 payment or distribution made by the issuer of a financial
43 21 asset. A securities intermediary satisfies the duty if:

43 22 a. the securities intermediary acts with respect to the
43 23 duty as agreed upon by the entitlement holder and the
43 24 securities intermediary; or

43 25 b. in the absence of agreement, the securities
43 26 intermediary exercises due care in accordance with reasonable
43 27 commercial standards to attempt to obtain the payment or
43 28 distribution.

43 29 2. A securities intermediary is obligated to its
43 30 entitlement holder for a payment or distribution made by the
43 31 issuer of a financial asset if the payment or distribution is
43 32 received by the securities intermediary.

43 33 Sec. 48. NEW SECTION. 554.8506 DUTY OF SECURITIES
43 34 INTERMEDIARY TO EXERCISE RIGHTS AS DIRECTED BY ENTITLEMENT
43 35 HOLDER.

44 1 A securities intermediary shall exercise rights with
44 2 respect to a financial asset if directed to do so by an
44 3 entitlement holder. A securities intermediary satisfies the
44 4 duty if:

44 5 1. the securities intermediary acts with respect to the
44 6 duty as agreed upon by the entitlement holder and the
44 7 securities intermediary; or

44 8 2. in the absence of agreement, the securities
44 9 intermediary either places the entitlement holder in a
44 10 position to exercise the rights directly or exercises due care
44 11 in accordance with reasonable commercial standards to follow
44 12 the direction of the entitlement holder.

44 13 Sec. 49. NEW SECTION. 554.8507 DUTY OF SECURITIES
44 14 INTERMEDIARY TO COMPLY WITH ENTITLEMENT ORDER.

44 15 1. A securities intermediary shall comply with an
44 16 entitlement order if the entitlement order is originated by
44 17 the appropriate person, the securities intermediary has had
44 18 reasonable opportunity to assure itself that the entitlement
44 19 order is genuine and authorized, and the securities
44 20 intermediary has had reasonable opportunity to comply with the
44 21 entitlement order. A securities intermediary satisfies the
44 22 duty if:

44 23 a. the securities intermediary acts with respect to the
44 24 duty as agreed upon by the entitlement holder and the
44 25 securities intermediary; or

44 26 b. in the absence of agreement, the securities
44 27 intermediary exercises due care in accordance with reasonable
44 28 commercial standards to comply with the entitlement order.

44 29 2. If a securities intermediary transfers a financial

44 30 asset pursuant to an ineffective entitlement order, the
44 31 securities intermediary shall reestablish a security
44 32 entitlement in favor of the person entitled to it, and pay or
44 33 credit any payments or distributions that the person did not
44 34 receive as a result of the wrongful transfer. If the
44 35 securities intermediary does not reestablish a security
45 1 entitlement, the securities intermediary is liable to the

45 2
45 3 Sec. 50. NEW SECTION. 554.8508 DUTY OF SECURITIES
45 4 INTERMEDIARY TO CHANGE ENTITLEMENT HOLDER'S POSITION TO OTHER
45 5 FORM OF SECURITY HOLDING.

45 6 A securities intermediary shall act at the direction of an
45 7 entitlement holder to change a security entitlement into
45 8 another available form of holding for which the entitlement
45 9 holder is eligible, or to cause the financial asset to be
45 10 transferred to a securities account of the entitlement holder
45 11 with another securities intermediary. A securities
45 12 intermediary satisfies the duty if:

45 13 1. the securities intermediary acts as agreed upon by the
45 14 entitlement holder and the securities intermediary; or

45 15 2. in the absence of agreement, the securities
45 16 intermediary exercises due care in accordance with reasonable
45 17 commercial standards to follow the direction of the
45 18 entitlement holder.

45 19 Sec. 51. NEW SECTION. 554.8509 SPECIFICATION OF DUTIES
45 20 OF SECURITIES INTERMEDIARY BY OTHER STATUTE OR REGULATION -
45 21 MANNER OF PERFORMANCE OF DUTIES OF SECURITIES INTERMEDIARY AND
45 22 EXERCISE OF RIGHTS OF ENTITLEMENT HOLDER.

45 23 1. If the substance of a duty imposed upon a securities
45 24 intermediary by sections 554.8504 through 554.8508 is the
45 25 subject of other statute, regulation, or rule, compliance with
45 26 that statute, regulation, or rule satisfies the duty.

45 27 2. To the extent that specific standards for the
45 28 performance of the duties of a securities intermediary or the
45 29 exercise of the rights of an entitlement holder are not
45 30 specified by other statute, regulation, or rule or by
45 31 agreement between the securities intermediary and entitlement
45 32 holder, the securities intermediary shall perform its duties
45 33 and the entitlement holder shall exercise its rights in a
45 34 commercially reasonable manner.

45 35 3. The obligation of a securities intermediary to perform
46 1 the duties imposed by sections 554.8504 through 554.8508 is
46 2 subject to:

46 3 a. rights of the securities intermediary arising out of a
46 4 security interest under a security agreement with the
46 5 entitlement holder or otherwise; and

46 6 b. rights of the securities intermediary under other law,
46 7 regulation, rule, or agreement to withhold performance of its
46 8 duties as a result of unfulfilled obligations of the
46 9 entitlement holder to the securities intermediary.

46 10 4. Sections 554.8504 through 554.8508 do not require a
46 11 securities intermediary to take any action that is prohibited
46 12 by other statute, regulation, or rule.

46 13 Sec. 52. NEW SECTION. 554.8510 RIGHTS OF PURCHASER OF
46 14 SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER.

46 15 1. An action based on an adverse claim to a financial
46 16 asset or security entitlement, whether framed in conversion,
46 17 replevin, constructive trust, equitable lien, or other theory,
46 18 may not be asserted against a person who purchases a security
46 19 entitlement, or an interest therein, from an entitlement
46 20 holder if the purchaser gives value, does not have notice of
46 21 the adverse claim, and obtains control.

46 22 2. If an adverse claim could not have been asserted
46 23 against an entitlement holder under section 554.8502, the
46 24 adverse claim cannot be asserted against a person who
46 25 purchases a security entitlement, or an interest therein, from
46 26 the entitlement holder.

46 27 3. In a case not covered by the priority rules in Article
46 28 9, a purchaser for value of a security entitlement, or an
46 29 interest therein, who obtains control has priority over a
46 30 purchaser of a security entitlement, or an interest therein,
46 31 who does not obtain control. Purchasers who have control rank
46 32 equally, except that a securities intermediary as purchaser
46 33 has priority over a conflicting purchaser who has control
46 34 unless otherwise agreed by the securities intermediary.

46 35 Sec. 53. NEW SECTION. 554.8511 PRIORITY AMONG SECURITY
47 1 INTERESTS AND ENTITLEMENT HOLDERS.

47 2 1. Except as otherwise provided in subsections 2 and 3, if
47 3 a securities intermediary does not have sufficient interests
47 4 in a particular financial asset to satisfy both its
47 5 obligations to entitlement holders who have security
47 6 entitlements to that financial asset and its obligation to a
47 7 creditor of the securities intermediary who has a security
47 8 interest in that financial asset, the claims of entitlement
47 9 holders, other than the creditor, have priority over the claim
47 10 of the creditor.

47 11 2. A claim of a creditor of a securities intermediary who
47 12 has a security interest in a financial asset held by a
47 13 securities intermediary has priority over claims of the
47 14 securities intermediary's entitlement holders who have
47 15 security entitlements with respect to that financial asset if
47 16 the creditor has control over the financial asset.

47 17 3. If a clearing corporation does not have sufficient
47 18 financial assets to satisfy both its obligations to
47 19 entitlement holders who have security entitlements with
47 20 respect to a financial asset and its obligation to a creditor
47 21 of the clearing corporation who has a security interest in
47 22 that financial asset, the claim of the creditor has priority
47 23 over the claims of entitlement holders.

47 24 Sec. 54. Section [554.9103](#), subsection 6, Code 1995, is
47 25 amended by striking the subsection and inserting in lieu
47 26 thereof the following:

47 27 6. INVESTMENT PROPERTY.

47 28 a. This subsection applies to investment property.

47 29 b. Except as otherwise provided in paragraph "f", during
47 30 the time that a security certificate is located in a
47 31 jurisdiction, perfection of a security interest, the effect of
47 32 perfection or nonperfection, and the priority of a security
47 33 interest in the certificated security represented thereby are
47 34 governed by the local law of that jurisdiction.

47 35 c. Except as otherwise provided in paragraph "f",
48 1 perfection of a security interest, the effect of perfection or
48 2 non-perfection, and the priority of a security interest in an
48 3 uncertificated security are governed by the local law of the
48 4 issuer's jurisdiction as specified in section 554.8110,
48 5 subsection 4.

48 6 d. Except as otherwise provided in paragraph "f",
48 7 perfection of a security interest, the effect of perfection or
48 8 non-perfection, and the priority of a security interest in a
48 9 security entitlement or securities account are governed by the
48 10 local law of the securities intermediary's jurisdiction as
48 11 specified in section 554.8110, subsection 5.

48 12 e. Except as otherwise provided in paragraph "f",
48 13 perfection of a security interest, the effect of perfection or
48 14 non-perfection, and the priority of a security interest in a
48 15 commodity contract or commodity account are governed by the
48 16 local law of the commodity intermediary's jurisdiction. The
48 17 following rules determine a "commodity intermediary's
48 18 jurisdiction" for purposes of this paragraph:

48 19 (1) If an agreement between the commodity intermediary and
48 20 commodity customer specifies that it is governed by the law of
48 21 a particular jurisdiction, that jurisdiction is the commodity
48 22 intermediary's jurisdiction.

48 23 (2) If an agreement between the commodity intermediary and

48 24 commodity customer does not specify the governing law as
48 25 provided in subparagraph (1), but expressly specifies that the
48 26 commodity account is maintained at an office in a particular
48 27 jurisdiction, that jurisdiction is the commodity
48 28 intermediary's jurisdiction.

48 29 (3) If an agreement between the commodity intermediary and
48 30 commodity customer does not specify a jurisdiction as provided
48 31 in subparagraph (1) or (2), the commodity intermediary's
48 32 jurisdiction is the jurisdiction in which is located the
48 33 office identified in an account statement as the office
48 34 serving the commodity customer's account.

48 35 (4) If an agreement between the commodity intermediary and
49 1 commodity customer does not specify a jurisdiction as provided
49 2 in subparagraph (1) or (2) and an account statement does not
49 3 identify an office serving the commodity customer's account as
49 4 provided in subparagraph (3), the commodity intermediary's
49 5 jurisdiction is the jurisdiction in which is located the chief
49 6 executive office of the commodity intermediary.

49 7 f. Perfection of a security interest by filing, automatic
49 8 perfection of a security interest in investment property
49 9 granted by a broker or securities intermediary, and automatic
49 10 perfection of a security interest in a commodity contract or
49 11 commodity account granted by a commodity intermediary are
49 12 governed by the local law of the jurisdiction in which the
49 13 debtor is located.

49 14 Sec. 55. Section [554.9105](#), subsection 1, paragraphs h and
49 15 i, Code 1995, are amended to read as follows:

49 16 h. "Goods" include all things which are movable at the
49 17 time the security interest attaches or which are fixtures
49 18 (section 554.9313), but do not include money, documents,
49 19 instruments, investment property, accounts, chattel paper,
49 20 general intangibles or minerals or the like (including oil and
49 21 gas) before extraction. "Goods" also include standing timber
49 22 which is to be cut and removed under a conveyance or contract
49 23 for sale, the unborn young of animals and growing crops;

49 24 i. "Instrument" means a negotiable instrument (defined in
49 25 section 554.3104),

~~or a certificated security (defined in~~

49 26

~~section 554.8102)~~

~~or any other writing which evidences a right~~
49 27 to the payment of money and is not itself a security agreement
49 28 or lease and is of a type which is in ordinary course of
49 29 business transferred by delivery with any necessary
49 30 endorsement or assignment. The term does not include
49 31 investment property;

49 32 Sec. 56. Section [554.9105](#), subsection 2, Code 1995, is
49 33 amended to read as follows:

49 34 2. Other definitions applying to this Article and the
49 35 sections in which they appear are:

50 1	"Account"	Section 554.9106
50 2	"Attach"	Section 554.9203
50 3	<u>"Commodity contract"</u>	<u>Section 554.9115</u>
50 4	<u>"Commodity customer"</u>	<u>Section 554.9115</u>
50 5	<u>"Commodity intermediary"</u>	<u>Section 554.9115</u>
50 6	"Construction mortgage"	Section 554.9313(1)
50 7	"Consumer goods"	Section 554.9109(1)
50 8	"Equipment"	Section 554.9109(2)
50 9	"Farm products"	Section 554.9109(3)
50 10	"Fixture"	Section 554.9313
50 11	"Fixture filing"	Section 554.9313
50 12	"General intangibles"	Section 554.9106
50 13	"Inventory"	Section 554.9109(4)
50 14	<u>"Investment property"</u>	<u>Section 554.9115</u>

50 15 "Lien creditor" Section 554.9301(3)
50 16 "Proceeds" Section 554.9306(1)
50 17 "Purchase money security
50 18 interest" Section 554.9107
50 19 "United States" Section 554.9103
50 20 Sec. 57. Section [554.9105](#), subsection 3, Code 1995, is
50 21 amended to read as follows:

50 22 3. The following definitions in other Articles apply to
50 23 this Article:

50 24 "Broker" Section 554.8102
50 25 "Certificated security" Section 554.8102
50 26 "Check" Section 554.3104
50 27 "Clearing corporation" Section 554.8102
50 28 "Contract for sale" Section 554.2106
50 29 "Control" Section 554.8106
50 30 "Delivery" Section 554.8301
50 31 "Entitlement holder" Section 554.8102
50 32 "Financial asset" Section 554.8102
50 33 "Holder in due course" Section 554.3302
50 34 "Note" Section 554.3104
50 35 "Sale" Section 554.2106
51 1 "Securities intermediary" Section 554.8102
51 2 "Security" Section 554.8102
51 3 "Security certificate" Section 554.8102
51 4 "Security entitlement" Section 554.8102
51 5 "Uncertificated security" Section 554.8102

51 6 Sec. 58. Section [554.9106](#), Code 1995, is amended to read
51 7 as follows:

51 8 554.9106 DEFINITIONS: "ACCOUNT" - "GENERAL INTANGIBLES."

51 9 "Account" means any right to payment for goods sold or
51 10 leased or for services rendered which is not evidenced by an
51 11 instrument or chattel paper, whether or not it has been earned
51 12 by performance. "General intangibles" means any personal
51 13 property (including things in action) other than goods,
51 14 accounts, chattel paper, documents, instruments, investment
51 15 property, and money. All rights to payment earned or unearned
51 16 under a charter or other contract involving the use or hire of
51 17 a vessel and all rights incident to the charter or contract
51 18 are accounts.

51 19 Sec. 59. NEW SECTION. 554.9115 INVESTMENT PROPERTY.

51 20 1. In this Article:

51 21 a. "Commodity account" means an account maintained by a
51 22 commodity intermediary in which a commodity contract is
51 23 carried for a commodity customer.

51 24 b. "Commodity contract" means a commodity futures
51 25 contract, an option on a commodity futures contract, a
51 26 commodity option, or other contract that, in each case, is:
51 27 (1) traded on or subject to the rules of a board of trade
51 28 that has been designated as a contract market for such a
51 29 contract pursuant to the federal commodities laws; or
51 30 (2) traded on a foreign commodity board of trade,
51 31 exchange, or market, and is carried on the books of a
51 32 commodity intermediary for a commodity customer.

51 33 c. "Commodity customer" means a person for whom a
51 34 commodity intermediary carries a commodity contract on its
51 35 books.

52 1 d. "Commodity intermediary" means:

52 2 (1) a person who is registered as a futures commission
52 3 merchant under the federal commodities laws; or
52 4 (2) a person who in the ordinary course of its business
52 5 provides clearance or settlement services for a board of trade
52 6 that has been designated as a contract market pursuant to the
52 7 federal commodities laws.

52 8 e. "Control" with respect to a certificated security,
52 9 uncertificated security, or security entitlement has the
52 10 meaning specified in section 554.8106. A secured party has
52 11 control over a commodity contract if by agreement among the

52 12 commodity customer, the commodity intermediary, and the
52 13 secured party, the commodity intermediary has agreed that it
52 14 will apply any value distributed on account of the commodity
52 15 contract as directed by the secured party without further
52 16 consent by the commodity customer. If a commodity customer
52 17 grants a security interest in a commodity contract to its own
52 18 commodity intermediary, the commodity intermediary as secured
52 19 party has control. A secured party has control over a
52 20 securities account or commodity account if the secured party
52 21 has control over all security entitlements or commodity
52 22 contracts carried in the securities account or commodity
52 23 account.

52 24 f. "Investment property" means:

- 52 25 (1) a security, whether certificated or uncertificated;
- 52 26 (2) a security entitlement;
- 52 27 (3) a securities account;
- 52 28 (4) a commodity contract; or
- 52 29 (5) a commodity account.

52 30 2. Attachment or perfection of a security interest in a
52 31 securities account is also attachment or perfection of a
52 32 security interest in all security entitlements carried in the
52 33 securities account. Attachment or perfection of a security
52 34 interest in a commodity account is also attachment or
52 35 perfection of a security interest in all commodity contracts
53 1 carried in the commodity account.

53 2 3. A description of collateral in a security agreement or
53 3 financing statement is sufficient to create or perfect a
53 4 security interest in a certificated security, uncertificated
53 5 security, security entitlement, securities account, commodity
53 6 contract, or commodity account whether it describes the
53 7 collateral by those terms, or as investment property, or by
53 8 description of the underlying security, financial asset, or
53 9 commodity contract. A description of investment property
53 10 collateral in a security agreement or financing statement is
53 11 sufficient if it identifies the collateral by specific
53 12 listing, by category, by quantity, by a computational or
53 13 allocational formula or procedure, or by any other method, if
53 14 the identity of the collateral is objectively determinable.

53 15 4. Perfection of a security interest in investment
53 16 property is governed by the following rules:

53 17 a. a security interest in investment property may be
53 18 perfected by control.

53 19 b. except as otherwise provided in paragraphs "c" and "d",
53 20 a security interest in investment property may be perfected by
53 21 filing.

53 22 c. if the debtor is a broker or securities intermediary, a
53 23 security interest in investment property is perfected when it
53 24 attaches. The filing of a financing statement with respect to
53 25 a security interest in investment property granted by a broker
53 26 or securities intermediary has no effect for purposes of
53 27 perfection or priority with respect to that security interest.

53 28 d. if a debtor is a commodity intermediary, a security
53 29 interest in a commodity contract or a commodity account is
53 30 perfected when it attaches. The filing of a financing
53 31 statement with respect to a security interest in a commodity
53 32 contract or a commodity account granted by a commodity
53 33 intermediary has no effect for purposes of perfection or
53 34 priority with respect to that security interest.

53 35 e. priority between conflicting security interests in the
54 1 same investment property is governed by the following rules:

54 2 (1) a security interest of a secured party who has control
54 3 over investment property has priority over a security interest
54 4 of a secured party who does not have control over the
54 5 investment property.

54 6 (2) except as otherwise provided in paragraphs "c" and
54 7 "d", conflicting security interests of secured parties each of
54 8 whom has control rank equally.

54 9 (3) except as otherwise agreed by the securities
54 10 intermediary, a security interest in a security entitlement or
54 11 a securities account granted to the debtor's own securities
54 12 intermediary has priority over any security interest granted
54 13 by the debtor to another secured party.

54 14 (4) except as otherwise agreed by the commodity
54 15 intermediary, a security interest in a commodity contract or a
54 16 commodity account granted to the debtor's own commodity
54 17 intermediary has priority over any security interest granted
54 18 by the debtor to another secured party.

54 19 (5) conflicting security interests granted by a broker, a
54 20 securities intermediary, or a commodity intermediary which are
54 21 perfected without control rank equally.

54 22 (6) in all other cases, priority between conflicting
54 23 security interests in investment property is governed by
54 24 section 554.9312, subsections 5, 6, and 7. Section 554.9312,
54 25 subsection 4, does not apply to investment property.

54 26 f. if a security certificate in registered form is
54 27 delivered to a secured party pursuant to agreement, a written
54 28 security agreement is not required for attachment or
54 29 enforceability of the security interest, delivery suffices for
54 30 perfection of the security interest, and the security interest
54 31 has priority over a conflicting security interest perfected by
54 32 means other than control, even if a necessary indorsement is
54 33 lacking.

54 34 Sec. 60. NEW SECTION. 554.9116 SECURITY INTEREST ARISING
54 35 IN PURCHASE OR DELIVERY OF FINANCIAL ASSET.

55 1 1. If a person buys a financial asset through a securities
55 2 intermediary in a transaction in which the buyer is obligated
55 3 to pay the purchase price to the securities intermediary at
55 4 the time of the purchase, and the securities intermediary
55 5 credits the financial asset to the buyer's securities account
55 6 before the buyer pays the securities intermediary, the
55 7 securities intermediary has a security interest in the buyer's
55 8 security entitlement securing the buyer's obligation to pay.
55 9 A security agreement is not required for attachment or
55 10 enforceability of the security interest, and the security
55 11 interest is automatically perfected.

55 12 2. If a certificated security, or other financial asset
55 13 represented by a writing which in the ordinary course of
55 14 business is transferred by delivery with any necessary
55 15 indorsement or assignment is delivered pursuant to an
55 16 agreement between persons in the business of dealing with such
55 17 securities or financial assets and the agreement calls for
55 18 delivery versus payment, the person delivering the certificate
55 19 or other financial asset has a security interest in the
55 20 certificated security or other financial asset securing the
55 21 seller's right to receive payment. A security agreement is
55 22 not required for attachment or enforceability of the security
55 23 interest, and the security interest is automatically
55 24 perfected.

55 25 Sec. 61. Section [554.9203](#), subsection 1, Code 1995, is
55 26 amended to read as follows:

55 27 1. Subject to the provisions of section 554.4210 on the
55 28 security interest of a collecting bank,

~~section 554.8321 on~~

55 29

~~security interests in securities~~
~~sections 554.9115 and~~

55 30 554.9116 on security interest in investment property, and
55 31 section 554.9113 on a security interest arising under the
55 32 Article on Sales, a security interest is not enforceable
55 33 against the debtor or third parties with respect to the
55 34 collateral and does not attach unless:

55 35 a. the collateral is in the possession of the secured
56 1 party pursuant to agreement, the collateral is investment
56 2 property and the secured party has control pursuant to
56 3 agreement, or the debtor has signed a security agreement which
56 4 contains a description of the collateral and in addition, when
56 5 the security interest covers crops growing or to be grown or
56 6 timber to be cut, a description of the land concerned;

56 7 b. value has been given; and

56 8 c. the debtor has rights in the collateral.

56 9 Sec. 62. Section 554.9301, subsection 1, paragraph d, Code
56 10 1995, is amended to read as follows:

56 11 d. in the case of accounts, and general intangibles, and
56 12 investment property, a person who is not a secured party and
56 13 who is a transferee to the extent that that person gives value
56 14 without knowledge of the security interest and before it is
56 15 perfected.

56 16 Sec. 63. Section 554.9302, subsection 1, paragraphs b, f,
56 17 and g, Code 1995, are amended to read as follows:

56 18 b. a security interest temporarily perfected in
56 19 instruments, certificated securities, or documents without
56 20 delivery under section 554.9304 or in proceeds for a ten-day
56 21 period under section 554.9306;

56 22 f. a security interest of a collecting bank (section
56 23 554.4210)

~~or in securities (section 554.8321)~~

~~or arising under~~

56 24 the Article on Sales (see section 554.9113) or covered in
56 25 subsection 3 of this section;

56 26 g. an assignment for the benefit of all the creditors of
56 27 the transferor, and subsequent transfers by the assignee
56 28 thereunder

~~i~~

56 29 Sec. 64. Section 554.9302, subsection 1, Code 1995, is
56 30 amended by adding the following new paragraph:

56 31 NEW PARAGRAPH. h. a security interest in investment
56 32 property which is perfected without filing under section
56 33 554.9115 or section 554.9116.

56 34 Sec. 65. Section 554.9303, subsection 1, Code 1995, is
56 35 amended to read as follows:

57 1 1. A security interest is perfected when it has attached
57 2 and when all of the applicable steps required for perfection
57 3 have been taken. Such steps are specified in sections
57 4 554.9115, 554.9302, 554.9304, 554.9305 and 554.9306. If such
57 5 steps are taken before the security interest attaches, it is
57 6 perfected at the time when it attaches.

57 7 Sec. 66. Section 554.9304, subsections 1, 4, and 5, Code
57 8 1995, are amended to read as follows:

57 9 1. A security interest in chattel paper or negotiable
57 10 documents may be perfected by filing. A security interest in
57 11 money or instruments (other than

~~certificated securities or~~

57 12 instruments which constitute part of chattel paper) can be
57 13 perfected only by the secured party's taking possession,
57 14 except as provided in subsections 4 and 5 of this section and
57 15 section 554.9306, subsections 2 and 3, on proceeds.

57 16 4. A security interest in instruments,

~~(other than~~

~~a~~

57 17 certificated securities

→

~~_, or negotiable documents is perfected~~

57 18 without filing or the taking of possession for a period of
57 19 twenty-one days from the time it attaches to the extent that
57 20 it arises for new value given under a written security
57 21 agreement.

57 22 5. A security interest remains perfected for a period of
57 23 twenty-one days without filing where a secured party having a
57 24 perfected security interest in an instrument,

~~—(other than~~

~~— a~~

57 25 certificated

~~— securities),~~

~~— security, a negotiable document or~~

57 26 goods in possession of a bailee other than one who has issued
57 27 a negotiable document therefor

57 28 a. makes available to the debtor the goods or documents
57 29 representing the goods for the purpose of ultimate sale or
57 30 exchange or for the purpose of loading, unloading, storing,
57 31 shipping, transshipping, manufacturing, processing or
57 32 otherwise dealing with them in a manner preliminary to their
57 33 sale or exchange, but priority between conflicting security
57 34 interests in the goods is subject to section 554.9312,
57 35 subsection 3; or

58 1 b. delivers the instrument or certificated security to the
58 2 debtor for the purpose of ultimate sale or exchange or of
58 3 presentation, collection, renewal, or registration of
58 4 transfer.

58 5 Sec. 67. Section [554.9305](#), Code 1995, is amended to read
58 6 as follows:

58 7 554.9305 WHEN POSSESSION BY SECURED PARTY PERFECTS
58 8 SECURITY INTEREST WITHOUT FILING.

58 9 A security interest in letters of credit and advices of
58 10 credit (subsection 2 "a" of section 554.5116), goods,
58 11 instruments

~~—(other than certificated securities)~~

~~—, money,~~

58 12 negotiable documents or chattel paper may be perfected by the
58 13 secured party's taking possession of the collateral. If such
58 14 collateral other than goods covered by a negotiable document
58 15 is held by a bailee, the secured party is deemed to have
58 16 possession from the time the bailee receives notification of
58 17 the secured party's interest. A security interest is
58 18 perfected by possession from the time possession is taken
58 19 without relation back and continues only so long as possession
58 20 is retained, unless otherwise specified in this Article. The
58 21 security interest may be otherwise perfected as provided in
58 22 this Article before or after the period of possession by the
58 23 secured party.

58 24 Sec. 68. Section [554.9306](#), subsection 1, Code 1995, is
58 25 amended to read as follows:

58 26 1. "Proceeds" include whatever is received upon the sale,
58 27 exchange, collection or other disposition of collateral or
58 28 proceeds. Insurance payable by reason of loss or damage to
58 29 the collateral is proceeds, except to the extent that it is
58 30 payable to a person other than a party to the security
58 31 agreement. Any payments or distributions made with respect to
58 32 investment property collateral are proceeds. Money, checks,
58 33 deposit accounts and the like are "cash proceeds". All other
58 34 proceeds are "noncash proceeds".

58 35 Sec. 69. Section 554.9306, subsection 3, paragraph b, Code
59 1 1995, is amended to read as follows:

59 2 b. a filed financing statement covers the original
59 3 collateral and the proceeds are identifiable cash proceeds;

~~or~~

59 4 Sec. 70. Section [554.9306](#), subsection 3, Code 1995, is
59 5 amended by adding the following new paragraph after paragraph
59 6 b and relettering subsequent paragraphs:

59 7 NEW PARAGRAPH. c. the original collateral was investment
59 8 property and the proceeds are identifiable cash proceeds; or

59 9 Sec. 71. Section [554.9309](#), Code 1995, is amended to read
59 10 as follows:

59 11 554.9309 PROTECTION OF PURCHASERS OF INSTRUMENTS AND
59 12 DOCUMENTS AND SECURITIES.

59 13 Nothing in this Article limits the rights of a holder in
59 14 due course of a negotiable instrument (section 554.3302) or a
59 15 holder to whom a negotiable document of title has been duly
59 16 negotiated (section 554.7501) or a

~~bona fide~~

~~protected~~

59 17 purchaser of a security (section

~~554.8302~~

~~554.8303~~) and such

59 18 holders or purchasers take priority over an earlier security
59 19 interest even though perfected. Filing under this Article
59 20 does not constitute notice of the security interest to such
59 21 holders or purchasers.

59 22 Sec. 72. Section [554.9312](#), subsections 1 and 7, Code 1995,
59 23 are amended to read as follows:

59 24 1. The rules of priority stated in other sections of this
59 25 Part and in the following sections shall govern when
59 26 applicable: section 554.4210 with respect to the security
59 27 interests of collecting banks in items being collected,
59 28 accompanying documents and proceeds; section 554.9103 on
59 29 security interests related to other jurisdictions; section
59 30 554.9114 on consignments; section 554.9115 on security
59 31 interest in investment property.

59 32 7. If future advances are made while a security interest
59 33 is perfected by filing, the taking of possession, or under
59 34 section

~~554.8321 on securities~~

~~554.9115 or section 554.9116 on~~

59 35 investment property, the security interest has the same
60 1 priority for the purposes of subsection 5 or section 554.9115,
60 2 subsection 5, with respect to the future advances as it does
60 3 with respect to the first advance. If a commitment is made
60 4 before or while the security interest is so perfected, the
60 5 security interest has the same priority with respect to
60 6 advances made pursuant thereto. In other cases a perfected
60 7 security interest has priority from the date the advance is
60 8 made.

60 9 Sec. 73. Section 554.10104, subsection 2, Code 1995, is
60 10 amended by striking the subsection.

60 11 Sec. 74. SAVINGS CLAUSE.

60 12 1. This Act does not affect an action or proceeding
60 13 commenced before this Act takes effect.

60 14 2. If a security interest in a security is perfected at
60 15 the date this Act takes effect, and the action by which the
60 16 security interest was perfected would suffice to perfect a
60 17 security interest under this Act, no further action is
60 18 required to continue perfection. If a security interest in a
60 19 security is perfected at the date this Act takes effect but
60 20 the action by which the security interest was perfected would
60 21 not suffice to perfect a security interest under this Act, the
60 22 security interest remains perfected for a period of four
60 23 months after the effective date and continues perfected
60 24 thereafter if appropriate action to perfect under this Act is

60 25 taken within that period. If a security interest is perfected
60 26 at the date this Act takes effect and the security interest
60 27 can be perfected by filing under this Act, a financing
60 28 statement signed by the secured party instead of the debtor
60 29 may be filed within that period to continue perfection or
60 30 thereafter to perfect.

60 31 Sec. 75. REPEALS.

60 32 1. Sections 554.8308 through 554.8321, Code 1995, are
60 33 repealed.

60 34 2. Section [554.8408](#), Code 1995, is repealed.

60 35 Sec. 76. EFFECTIVE DATE. This Act becomes effective on
61 1 July 1, 1997.

61 2 EXPLANATION

61 3 This bill provides for investment securities, by rewriting
61 4 Article 8 of the uniform commercial code, as recommended by
61 5 the American Law Institute and the National Conference of
61 6 Commissioners on Uniform State Laws. The bill provides
61 7 commercial law rules applicable to investment securities,
61 8 including the holding of investment securities directly by
61 9 investors or by persons on behalf of investor clients. The
61 10 Article is divided into multiple parts.

61 11 Part 1 deals with definitions and general matters affecting
61 12 the Article. Section 554.8012 provides definitions; section
61 13 554.8013 includes provisions for determining whether certain
61 14 obligations and interests are securities; section 554.8104
61 15 provides for the acquisition of security or financial assets;
61 16 section 554.8105 provides procedures for notice of an adverse
61 17 claim; section 554.8106 provides for control; section 554.8107
61 18 provides for indorsements, instructions, and entitlement
61 19 orders; section 554.8108 provides for warranties involving
61 20 direct holding; section 554.8109 provides for warranties in
61 21 indirect holding; section 554.8110 provides for applicability
61 22 and choice of law; section 554.8111 provides for clearing
61 23 corporations; section 554.8112 provides for a creditor's legal
61 24 processes; section 554.8113 provides for statutes of frauds;
61 25 section 554.8114 provides for evidentiary rules concerning
61 26 certificated securities; section 554.8115 provides for
61 27 security intermediaries; and section 554.8116 provides for
61 28 securities intermediaries as purchasers for values.

61 29 Parts 2, 3, and 4 deal with the rights of persons who hold
61 30 securities directly. Under the bill, a person who holds a
61 31 security through a broker or securities custodian has a
61 32 security entitlement governed by the Part 5, and is not
61 33 considered the direct holder of the security.

61 34 Part 2 is largely unchanged from current Iowa law. It
61 35 deals with certain obligations of issuers. According to the
62 1 Prefatory Note to the model Act, the primary purpose of the
62 2 provisions of Part 2 is to apply to investment securities the
62 3 principles of negotiable instruments law that preclude the
62 4 issuers of negotiable instruments from asserting defenses
62 5 against subsequent purchasers. Section 554.8201 provides for
62 6 issuers; section 554.8202 provides for an issuer's
62 7 responsibility and defenses; section 554.8203 provides notice
62 8 of defect or defense based on staleness; section 554.8204
62 9 provides for the effect of an issuer's restriction on a
62 10 transfer; section 554.8205 provides for the effect of an
62 11 unauthorized signature on a security certificate; section
62 12 554.8206 provides for completion or alternation of a security
62 13 certificate; section 554.8207 provides for the rights and
62 14 duties of an issuer; section 554.8208 provides for the effect
62 15 of a signature of an authenticating trustee, registrar, or
62 16 transfer agent; section 554.8209 provides for an issuer's
62 17 lien; and section 554.8210 provides for overissue.

62 18 Part 3 deals with a transfer for securities held directly.
62 19 This part applies to investment securities provisions
62 20 regulating negotiable instruments that have protected
62 21 purchasers of negotiable instruments against adverse claims.

62 22 Section 554.8301 provides for delivery; section 554.8302
62 23 provides for the rights of purchasers; section 554.8303
62 24 provides for protected purchasers; section 554.8304 provides
62 25 for indorsement; section 554.8305 provides for instructions;
62 26 section 554.8306 provides for the effect of guaranteeing a
62 27 signature, indorsement, or instruction; and section 554.8307
62 28 provides for a purchaser's rights.

62 29 Part 4 deals with the process of registration of transfer
62 30 by the issuer or transfer agent. Section 554.8401 provides
62 31 for the duty of an issuer to register a transfer; section
62 32 554.8402 provides for an assurance that an indorsement or
62 33 instruction is effective; section 554.8403 provides for a
62 34 demand that an issuer is not registering a transfer; section
62 35 554.8404 provides for wrongful registration; section 554.8405
63 1 provides for the replacement of a lost, destroyed, or
63 2 wrongfully taken security certificate; section 554.8406
63 3 provides for an obligation to notify an issuer of a lost,
63 4 destroyed, or wrongfully taken security certificate; and
63 5 section 554.8407 provides for an authenticating trustee,
63 6 transfer agency, or registrar.

63 7 Part 5 applies specifically to the indirect holding of
63 8 securities, when one person holds securities on behalf of
63 9 another. Part 5 provides for the rights and property interest
63 10 associated with a security entitlement. The bill provides
63 11 that a person acquires a security entitlement when a
63 12 securities intermediary credits the financial asset to the
63 13 person's account. A securities intermediary is a clearing
63 14 corporation or a person, including a bank or broker, that in
63 15 the ordinary course of its business maintains securities
63 16 accounts for others. A "clearing agency" includes a federal
63 17 reserve bank or any other person that provides clearance or
63 18 settlement services with respect to financial assets and is
63 19 required to register as such under the federal securities
63 20 laws. Section 554.8501 provides for securities accounts and
63 21 the acquisition of a security entitlement from a securities
63 22 intermediary; section 554.8502 provides for the assertion of
63 23 an adverse claim against an entitlement holder; section
63 24 554.8503 provides for the property interest of an entitlement
63 25 holder in a financial asset held by a securities intermediary;
63 26 section 554.8504 provides for the duty of a securities
63 27 intermediary to maintain financial assets; section 554.8505
63 28 provides for the duty of a securities intermediary regarding
63 29 payments and distributions; section 554.8506 provides for the
63 30 duty of a securities intermediary to exercise rights as
63 31 directed by an entitlement holder; section 554.8507 provides
63 32 for the duty of a securities intermediary to comply with an
63 33 entitlement order; section 554.8508 provides for a duty of a
63 34 securities intermediary to change an entitlement holder's
63 35 position to another form of security holder; section 554.8509
64 1 specifies duties of securities intermediaries and others;
64 2 section 554.8510 provides for the rights of purchaser of
64 3 securities entitlements from entitlement holders; and section
64 4 554.8511 provides for priority among security interests and
64 5 entitlement holders

64 6 Along with the revision of Article 8, the bill provides
64 7 related changes in Articles 1, 4, 5, 9, and 10, including a
64 8 number of changes concerning security interests in Article 9.

64 9 Conforming amendments to Articles other than Article 9
64 10 include amendments to Article 1 providing general provisions
64 11 applicable to the entire chapter, and specifically to section
64 12 554.105, relating to the territorial application of the
64 13 chapter, and section 554.1206, relating to statute of frauds
64 14 for kinds of personal property; Article 4 providing for bank
64 15 deposits and collections, and specifically section 554.4104,
64 16 relating to definitions; Article 5 providing for letters of
64 17 credit, and specifically section 554.5114, relating to an
64 18 issuer's duties and rights; and Article 10 providing for the

64 19 chapter's effective date and repealer, and specifically for
64 20 the application of Article 8.
64 21 Article 9 provides for secured transactions, and
64 22 specifically amends section 554.9103, relating to the
64 23 perfection of security interests in multiple state
64 24 transactions; section 554.9105, relating to definitions;
64 25 section 554.9106, relating to specific definitions for
64 26 accounts and general intangibles; section 554.9115, relating
64 27 to investment property; section 554.9116, relating to security
64 28 interests arising in purchase or delivery of financial assets;
64 29 section 554.9203, relating to attachments and enforceability
64 30 of security interests; section 554.9301, relating to persons
64 31 who take priority over unperfected security interests; section
64 32 554.9302, relating to requirements when filing is required to
64 33 perfect a security interest; section 554.9303, relating to the
64 34 perfection of security interests; section 554.9304, relating
64 35 to the perfection of security interests in documents and goods
65 1 covered by documents; section 554.9305, relating to possession
65 2 by a secured party perfecting a security interest without
65 3 filing; section 554.9306, relating to a secured party's right
65 4 of disposition of collateral; section 554.9309, relating to
65 5 the protection of purchasers of instruments, documents, and
65 6 securities; and section 554.9312, relating to priorities among
65 7 conflicting security interests in the same collateral.
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