

1                                   A bill to be entitled  
2           An act relating to the Uniform Commercial Code;  
3           amending ss. 679.1021, 679.1081, 679.2031,  
4           679.210, 679.510, 679.513, 679.516, 679.519,  
5           679.527, and 679.625, F.S.; revising provisions  
6           of the Uniform Commercial Code as amended to  
7           clarify and conform; amending ss. 679.3011,  
8           679.3171, 679.334, and 679.5011, F.S.;  
9           clarifying the application of laws of this  
10          state to security interests in goods as  
11          fixtures; revising operation of provisions  
12          specifying priority of such security interests;  
13          amending s. 679.5041, F.S.; revising provisions  
14          governing sufficiency of indications of  
15          collateral in financing statements; providing  
16          an effective date.

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

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20           Section 1. Paragraph (nn) of subsection (1) of section  
21 679.1021, Florida Statutes, is amended to read:

22           679.1021 Definitions and index of definitions.--

23           (1) In this chapter, the term:

24           (nn) "Fixture filing" means the filing of a financing  
25 statement covering goods that are or are to become fixtures  
26 and satisfying s. 679.5021 ~~679.502~~(1) and (2). The term  
27 includes the filing of a financing statement covering goods of  
28 a transmitting utility which are or are to become fixtures.29           Section 2. Subsection (5) of section 679.1081, Florida  
30 Statutes, is amended to read:

31           679.1081 Sufficiency of description.--

1           (5) A description only by type of collateral defined  
2 in this chapter ~~the Uniform Commercial Code~~ is an insufficient  
3 description of:

- 4           (a) A commercial tort claim; ~~or~~  
5           (b) In a consumer transaction, consumer goods, a  
6 security entitlement, a securities account, or a commodity  
7 account; ~~or-~~  
8           (c) An account consisting of a right to payment of a  
9 monetary obligation for the sale of real property that is the  
10 debtor's homestead under the laws of this state.

11           Section 3. Subsection (2) of section 679.2031, Florida  
12 Statutes, is amended and subsection (10) is added to that  
13 section to read:

14           679.2031 Attachment and enforceability of security  
15 interest; proceeds; supporting obligations; formal  
16 requisites.--

17           (2) Except as otherwise provided in subsections (3)  
18 through ~~(10)~~(9), a security interest is enforceable against  
19 the debtor and third parties with respect to the collateral  
20 only if:

21           (a) Value has been given;  
22           (b) The debtor has rights in the collateral or the  
23 power to transfer rights in the collateral to a secured party;  
24 and

25           (c) One of the following conditions is met:

26           1. The debtor has authenticated a security agreement  
27 that provides a description of the collateral and, if the  
28 security interest covers timber to be cut, a description of  
29 the land concerned;  
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1           2. The collateral is not a certificated security and  
2 is in the possession of the secured party under s. 679.3131  
3 pursuant to the debtor's security agreement;

4           3. The collateral is a certificated security in  
5 registered form and the security certificate has been  
6 delivered to the secured party under s. 678.3011 pursuant to  
7 the debtor's security agreement; or

8           4. The collateral is deposit accounts, electronic  
9 chattel paper, investment property, or letter-of-credit  
10 rights, and the secured party has control under s. 679.1041,  
11 s. 679.1051, s. 679.1061, or s. 679.1071 pursuant to the  
12 debtor's security agreement.

13           (10) A security interest in an account consisting of a  
14 right to payment of a monetary obligation for the sale of real  
15 property that is the debtor's homestead under the laws of this  
16 state is not enforceable unless:

17           (a) The description of the account in the security  
18 agreement conspicuously states that the collateral includes  
19 the debtor's right to payment of a monetary obligation for the  
20 sale of real property;

21           (b) The description of the account in the security  
22 agreement includes a legal description of the real property;

23           (c) The description of the account in the security  
24 agreement conspicuously states that the real property is the  
25 debtor's homestead; and

26           (d) The security agreement is also authenticated by  
27 the debtor's spouse, if the debtor is married; if the debtor's  
28 spouse is incompetent, then the method of authentication by  
29 the debtor's spouse is the same as provided by the laws of  
30 this state, other than this chapter, which apply to the

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1 alienation or encumbrance of homestead property by an  
2 incompetent person.

3 Section 4. Subsection (6) of section 679.210, Florida  
4 Statutes, is amended to read:

5 679.210 Request for accounting; request regarding list  
6 of collateral or statement of account.--

7 (6) A debtor is entitled under this section without  
8 charge to one response to a request for an accounting or a  
9 request regarding a statement of account for each secured  
10 obligation during any 6-month period. A debtor in a consumer  
11 transaction is entitled to a single response to a request  
12 regarding a list of collateral, ~~for a transaction other than a~~  
13 ~~consumer transaction~~, without charge during any 6-month  
14 period. The secured party may require payment of a charge not  
15 exceeding \$25 for each additional response to a request for an  
16 accounting, a request regarding a statement of account, or a  
17 request regarding a list of collateral for a consumer  
18 transaction. To the extent provided in an authenticated  
19 record, the secured party may require the payment of  
20 reasonable expenses, including attorney's fees, reasonably  
21 incurred in providing a response to a request regarding a list  
22 of collateral for a transaction other than a consumer  
23 transaction under this section; otherwise, the secured party  
24 may not charge more than \$25 for each request regarding a list  
25 of collateral. Excluding a request related to a proposed  
26 satisfaction of the secured obligation, a secured party is not  
27 required to respond to more than 12 of each of the permitted  
28 requests in any 12-month period.

29 Section 5. Subsection (3) of section 679.3011, Florida  
30 Statutes, is amended, and subsection (5) is added to said  
31 section, to read:

1           679.3011 Law governing perfection and priority of  
2 security interests.--Except as otherwise provided in ss.  
3 679.1091, 679.3031, 679.3041, 679.3051, and 679.3061, the  
4 following rules determine the law governing perfection, the  
5 effect of perfection or nonperfection, and the priority of a  
6 security interest in collateral:

7           (3) Except as otherwise provided in subsections  
8 ~~subsection~~ (4) and (5), while negotiable documents, goods,  
9 instruments, money, or tangible chattel paper is located in a  
10 jurisdiction, the local law of that jurisdiction governs:

11           (a) Perfection of a security interest in the goods by  
12 filing a fixture filing;

13           (b) Perfection of a security interest in timber to be  
14 cut; and

15           (c) The effect of perfection or nonperfection and the  
16 priority of a nonpossessory security interest in the  
17 collateral.

18           (5) The law of this state governs:

19           (a) The perfection of a security interest in goods  
20 that are or are to become fixtures in this state by the filing  
21 of a fixture filing.

22           (b) The effect of perfection or nonperfection and the  
23 priority of a security interest in goods that are or are to  
24 become fixtures in this state.

25           Section 6. Subsections (6) and (7) are added to  
26 section 679.3171, Florida Statutes, to read:

27           679.3171 Interests that take priority over or take  
28 free of security interest or agricultural lien.--

29           (6) An encumbrancer or owner, other than the debtor or  
30 a lien creditor, who acquires an interest in the related real  
31 property takes free of a security interest in goods that are

1 or become fixtures in this state, which interest is perfected  
2 only with a financing statement that is not filed as a fixture  
3 filing, even if the encumbrancer or owner knows of the  
4 existence of such statement. For purposes of s. 695.01, the  
5 filing of a financing statement covering goods that are or  
6 become fixtures in this state, which statement is not filed as  
7 a fixture filing, shall not constitute constructive notice of  
8 such security interest to any person, other than a lien  
9 creditor, who acquires an interest in the related real  
10 property.

11 (7) The holder of a mortgage or other lien against  
12 real property arising under the laws of this state, other than  
13 this chapter, has priority with respect to the rents, issues,  
14 profits, and proceeds of the real property, including proceeds  
15 from the sale thereof, over a security interest in an account  
16 consisting of a right to payment of a monetary obligation for  
17 the sale of the real property.

18 Section 7. Subsection (4) of section 679.334, Florida  
19 Statutes, is amended to read:

20 679.334 Priority of security interests in fixtures and  
21 crops.--

22 (4) A security interest in goods which are or become  
23 fixtures perfected with a financing statement that is filed as  
24 a fixture filing takes priority as to the goods over the  
25 conflicting interest ~~claims~~ of an encumbrancer or owner of the  
26 related ~~all persons acquiring an interest in the~~ real property  
27 arising subsequent to the perfection of such security interest  
28 or the affixing of the goods to the real property, whichever  
29 occurs later. A security interest in goods which are or become  
30 fixtures perfected only with a financing statement that is not  
31 filed as a fixture filing is subject to the rights of an

1 encumbrancer or owner of the related real property under s.  
 2 679.3171(6) and to the rights of a lien creditor under s.  
 3 679.3171(1)(b), but takes priority as to the goods over the  
 4 rights of a lien creditor who does not meet the requirements  
 5 of s. 679.3171(1)(b).

6 Section 8. Section 679.5011, Florida Statutes, is  
 7 amended to read:

8 679.5011 Filing office.--

9 (1) Except as otherwise provided in subsection (2),  
 10 the office in which to file a financing statement to perfect a  
 11 security interest or agricultural lien is:

12 (a) The office of the clerk of the circuit court, if:

13 1. The collateral is as-extracted collateral or timber  
 14 to be cut; or

15 2. The collateral is goods that are or are to become  
 16 fixtures and in this state, in which event the financing  
 17 statement is shall be filed as a fixture filing.

18 (b) The Florida Secured Transaction Registry, in  
 19 accordance with ss. 679.3011-679.3071, and in all other cases,  
 20 including cases in which the collateral is goods that are or  
 21 are to become fixtures and the financing statement is not  
 22 filed as a fixture filing.

23 (2) The office in which to file a financing statement  
 24 to perfect a security interest in collateral, including  
 25 fixtures, of a transmitting utility is the Office of the  
 26 Secretary of State, or the filing office authorized by s.  
 27 679.527 ~~697.527~~ to accept filings for the Florida Secured  
 28 Transaction Registry. The financing statement also  
 29 constitutes a fixture filing as to the collateral indicated in  
 30 the financing statement which is or is to become fixtures.

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1 Section 9. Section 679.510, Florida Statutes, is  
2 amended to read:

3 679.510 Effectiveness of filed record.--

4 (1) ~~Subject to subsection (3),~~A filed record is  
5 effective only to the extent that it was filed by a person who  
6 may file it under s. 679.509.

7 (2) A record authorized by one secured party of record  
8 does not affect the financing statement with respect to  
9 another secured party of record.

10 ~~(3) If a person may file a termination statement only~~  
11 ~~under s. 679.509(3)(b), the filed termination statement is~~  
12 ~~effective only if the debtor authorizes the filing and the~~  
13 ~~termination statement indicates that the debtor authorized it~~  
14 ~~to be filed.~~

15 (3)~~(4)~~ A continuation statement that is not filed  
16 within the 6-month period prescribed by s. 679.515(4) is  
17 ineffective.

18 Section 10. Subsection (4) of section 679.513, Florida  
19 Statutes, is amended to read:

20 679.513 Termination statement.--

21 (4) ~~Except as otherwise provided in s. 679.510,~~Upon  
22 the filing of a termination statement with the filing office,  
23 the financing statement to which the termination statement  
24 relates ceases to be effective. ~~Except as otherwise provided~~  
25 ~~in s. 679.510,~~For purposes of ss. 679.519(7) and 679.522(1),  
26 the filing with the filing office of a termination statement  
27 relating to a financing statement that indicates that the  
28 debtor is a transmitting utility also causes the effectiveness  
29 of the financing statement to lapse.

30 Section 11. Subsections (1) and (2) of section  
31 679.516, Florida Statutes, are amended to read:



1           679.516 What constitutes filing; effectiveness of  
2 filing.--

3           (1) Except as otherwise provided in subsection (2),  
4 communication of a record to a filing office and, tender of  
5 the processing fee, or acceptance of the record by the filing  
6 office constitutes filing.

7           (2) Filing does not occur with respect to a record  
8 that a filing office refuses to accept because:

9           (a) The record is not communicated by a method or  
10 medium of communication authorized by the filing office;

11           (b) An amount equal to or greater than the applicable  
12 processing fee is not tendered;

13           ~~(c) The record does not include the notation required~~  
14 ~~by s. 201.22 indicating that the excise tax required by~~  
15 ~~chapter 201 had been paid or is not required;~~

16           (c)~~(d)~~ The filing office is unable to index the record  
17 because:

18           1. In the case of an initial financing statement, the  
19 record does not provide an organization's name or, if an  
20 individual, the individual's last name and first name ~~or~~  
21 ~~initial~~;

22           2. In the case of an amendment or correction  
23 statement, the record:

24           a. Does not correctly identify the initial financing  
25 statement as required by s. 679.512 or s. 679.518, as  
26 applicable; or

27           b. Identifies an initial financing statement the  
28 effectiveness of which has lapsed under s. 679.515;

29           3. In the case of an initial financing statement that  
30 provides the name of a debtor identified as an individual or  
31 an amendment that provides a name of a debtor identified as an

1 individual which was not previously provided in the financing  
2 statement to which the record relates, the record does not  
3 identify the debtor's last name and first name ~~or initial~~; or

4 4. In the case of a record filed or recorded in the  
5 filing office described in s. 679.5011(1)(a), the record does  
6 not provide a sufficient description of the real property to  
7 which it relates;

8 (d)~~(e)~~ In the case of an initial financing statement  
9 or an amendment that adds a secured party of record, the  
10 record does not provide an organization's name or, if an  
11 individual, the individual's last name and first name ~~or~~  
12 ~~initial~~ and mailing address for the secured party of record;

13 (e)~~(f)~~ In the case of an initial financing statement  
14 or an amendment that provides a name of a debtor which was not  
15 previously provided in the financing statement to which the  
16 amendment relates, the record does not:

- 17 1. Provide a mailing address for the debtor;
- 18 2. Indicate whether the debtor is an individual or an  
19 organization; or
- 20 3. If the financing statement indicates that the  
21 debtor is an organization, provide:
- 22 a. A type of organization for the debtor;
- 23 b. A jurisdiction of organization for the debtor; or
- 24 c. An organizational identification number for the  
25 debtor or indicate that the debtor has none;

26 (f)~~(g)~~ In the case of an assignment reflected in an  
27 initial financing statement under s. 679.514(1) or an  
28 amendment filed under s. 679.514(2), the record does not  
29 provide an organization's name or, if an individual, the  
30 individual's last name and first name ~~or initial~~ and mailing  
31 address for the assignee;

1        (g)~~(h)~~ In the case of a continuation statement, the  
2 record is not filed within the 6-month period prescribed by s.  
3 679.515(4);

4        (h)~~(i)~~ In the case of an initial financing statement  
5 or an amendment, which amendment requires the inclusion of a  
6 collateral statement but the record does not provide any, the  
7 record does not provide a statement of collateral; or

8        (i) The record does not include the notation required  
9 by s. 201.22 indicating that the excise tax required by  
10 chapter 201 had been paid or is not required.

11        Section 12. Subsection (1) of section 679.519, Florida  
12 Statutes, is amended to read:

13        679.519 Numbering, maintaining, and indexing records;  
14 communicating information provided in records.--

15        (1) For each record filed in a filing office, the  
16 filing office shall, ~~in accordance with such other laws~~  
17 ~~applicable to the recording of instruments by a filing office~~  
18 ~~described in s. 679.5011(1)(a):~~

19        (a) Assign a unique number to the filed record;

20        (b) Create a record that bears the number assigned to  
21 the filed record and the date and time of filing;

22        (c) Maintain the filed record for public inspection;  
23 and

24        (d) Index the filed record in accordance with  
25 subsections (3), (4), and (5).

26        Section 13. Subsections (2) and (4) of section  
27 679.527, Florida Statutes, are amended to read:

28        679.527 Florida Secured Transaction Registry.--

29        (2) Under chapter 287, the department has the  
30 authority to determine and select the most qualified  
31 respondents to the request for qualifications and to negotiate

1 and enter into one or more contracts as provided in this  
2 section. The contract may not be assignable or otherwise  
3 transferable without the express written consent of the  
4 department, notwithstanding any limitations imposed by s.  
5 679.4061 or s. 679.4081.

6 (4) Notwithstanding the terms and conditions of any  
7 contract to perform the administrative and operational  
8 functions of the filing office or filing officer under this  
9 part for the Florida Secured Transaction Registry, the  
10 department and the state shall retain sole and exclusive  
11 ownership of the materials and records of the registry, shall  
12 have the right to inspect and make copies of the materials and  
13 records of the registry, and shall have the right to  
14 immediately reclaim and take possession and control of the  
15 original materials and records of the registry if any entity  
16 under contract with the department to administer and operate  
17 the registry does not, or cannot, perform the terms and  
18 conditions of the contract for any reason or commences or is  
19 adjudicated a debtor in ~~consents to~~ an insolvency proceeding.

20 If the department reclaims control of the materials and  
21 records of the registry, the department shall provide for the  
22 uninterrupted fulfillment of the duties of the filing office  
23 and filing officer under this chapter by administration and  
24 operation by the department until a subsequent contract for  
25 such duties can be executed. The department shall be entitled  
26 to injunctive relief if the entity fails to turn over the  
27 materials and records upon demand, and the Circuit Court for  
28 Leon County, Florida, shall have exclusive original  
29 jurisdiction to adjudicate any disputes pertaining to this  
30 section or any contract entered into under this section.

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1           Section 14. Paragraph (f) of subsection (5) of section  
2 679.625, Florida Statutes, is amended to read:

3           679.625 Remedies for failure to comply with article.--

4           (5) In lieu of damages recoverable under subsection  
5 (2), the debtor, consumer obligor, or person named as a debtor  
6 in a filed record, as applicable, may recover \$500 in each  
7 case from a person who:

8           (f) Fails to comply with s. 679.616(2)(b) ~~with respect~~  
9 ~~to a consumer transaction, and with respect to a transaction~~  
10 ~~other than a consumer transaction, after receipt of an~~  
11 ~~authenticated record notifying the person of such~~  
12 ~~noncompliance.~~

13           Section 15. Section 679.5041, Florida Statutes, is  
14 amended to read:

15           679.5041 Indication of collateral.--A financing  
16 statement sufficiently indicates the collateral that it covers  
17 if the financing statement provides:

18           (1) A description of the collateral pursuant to s.  
19 679.1081; or

20           (2) ~~If the security agreement grants a security~~  
21 ~~interest in all of the debtor's personal property and such~~  
22 ~~property is reasonably identified in the security agreement,~~  
23 ~~as permitted by s. 679.1081,~~An indication that the financing  
24 statement covers all assets or all personal property.

25           Section 16. This act shall take effect upon becoming a  
26 law.

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