

By Senator Garcia

40-01054-10

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1                   A bill to be entitled  
2           An act relating to the Uniform Commercial Code;  
3           amending s. 668.50, F.S.; correcting cross-references;  
4           amending s. 671.304, F.S.; correcting a cross-  
5           reference; providing an effective date.  
6

7 Be It Enacted by the Legislature of the State of Florida:  
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9           Section 1. Subsection (16) of section 668.50, Florida  
10 Statutes, is amended to read:

11           668.50 Uniform Electronic Transaction Act.—

12           (16) TRANSFERABLE RECORDS.—

13           (a) For purposes of this paragraph, "transferable record"  
14 means an electronic record that:

15           1. Would be a note under chapter 673, or a document under  
16 chapter 677, if the electronic record were in writing.

17           2. The issuer of the electronic record expressly has agreed  
18 is a transferable record.

19           (b) A person has control of a transferable record if a  
20 system employed for evidencing the transfer of interests in the  
21 transferable record reliably establishes that person as the  
22 person to which the transferable record was issued or  
23 transferred.

24           (c) A system satisfies paragraph (b), and a person is  
25 deemed to have control of a transferable record, if the  
26 transferable record is created, stored, and assigned in such a  
27 manner that:

28           1. A single authoritative copy of the transferable record  
29 exists which is unique, identifiable, and, except as otherwise

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30 provided in subparagraphs 4., 5., and 6., unalterable.

31 2. The authoritative copy identifies the person asserting  
32 control as the person to which the transferable record was  
33 issued or, if the authoritative copy indicates that the  
34 transferable record has been transferred, the person to which  
35 the transferable record was most recently transferred.

36 3. The authoritative copy is communicated to and maintained  
37 by the person asserting control or its designated custodian.

38 4. Copies or revisions that add or change an identified  
39 assignee of the authoritative copy can be made only with the  
40 consent of the person asserting control.

41 5. Each copy of the authoritative copy and any copy of a  
42 copy is readily identifiable as a copy that is not the  
43 authoritative copy.

44 6. Any revision of the authoritative copy is readily  
45 identifiable as authorized or unauthorized.

46 (d) Except as otherwise agreed, a person having control of  
47 a transferable record is the holder, as defined in s.  
48 671.201(21), of the transferable record and has the same rights  
49 and defenses as a holder of an equivalent record or writing  
50 under the Uniform Commercial Code, including, if the applicable  
51 statutory requirements under s. 673.3021, s. 677.501, or s.  
52 679.330 ~~s. 673.3021, s. 677.501, or s. 679.308~~ are satisfied,  
53 the rights and defenses of a holder in due course, a holder to  
54 which a negotiable document of title has been duly negotiated,  
55 or a purchaser, respectively. Delivery, possession, and  
56 indorsement are not required to obtain or exercise any of the  
57 rights under this paragraph.

58 (e) Except as otherwise agreed, an obligor under a

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59 transferable record has the same rights and defenses as an  
60 equivalent obligor under equivalent records or writings under  
61 the Uniform Commercial Code.

62 (f) If requested by a person against which enforcement is  
63 sought, the person seeking to enforce the transferable record  
64 shall provide reasonable proof that the person is in control of  
65 the transferable record. Proof may include access to the  
66 authoritative copy of the transferable record and related  
67 business records sufficient to review the terms of the  
68 transferable record and to establish the identity of the person  
69 having control of the transferable record.

70 Section 2. Subsection (5) of section 671.304, Florida  
71 Statutes, is amended to read:

72 671.304 Laws not repealed; precedence where code provisions  
73 in conflict with other laws; certain statutory remedies  
74 retained.—

75 (5) The effectiveness of any financing statement or  
76 continuation statement filed prior to January 1, 1980, or any  
77 continuation statement filed on or after October 1, 1984, which  
78 states that the debtor is a transmitting utility as provided in  
79 s. 679.515(6) ~~s. 679.403(6)~~ shall continue until a termination  
80 statement is filed, except that if this act requires a filing in  
81 an office where there was no previous financing statement, a new  
82 financing statement conforming to s. 680.109(4), Florida  
83 Statutes 1979, shall be filed in that office.

84 Section 3. This act shall take effect July 1, 2010.