

1 AN ACT concerning business transactions.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Uniform Commercial Code is amended by
5 changing Sections 9-301, 9-310, 9-312, 9-314, and 9-322 and
6 adding Sections 9-107.1, 9-306.1, and 9-329.1 as follows:

7 (810 ILCS 5/9-107.1 new)

8 Sec. 9-107.1. Control of Beneficial Interest in Illinois
9 Land Trust.

10 (a) Requirements for Control. A secured party has
11 control of the beneficial interest in an Illinois land trust
12 if:

13 (1) the secured party shall have transmitted to the
14 trustee for the trust a record authenticated by the
15 debtor that contains a collateral assignment by the
16 debtor of, or the grant of a security interest in, a
17 beneficial interest in the trust; and

18 (2) in an authenticated record, the trustee for
19 the trust has accepted the collateral assignment or
20 security agreement.

21 (b) Debtor's right to direct disposition and proceeds. A
22 secured party that has satisfied subsection (a) has control,
23 even if the debtor retains, subject to the terms and
24 conditions of the collateral assignment or security
25 agreement, the power of direction of the trustee and the
26 right to receive the rents, income and profits thereof.

27 (810 ILCS 5/9-301) (from Ch. 26, par. 9-301)

28 (Text of Section before amendment by P.A. 91-893)

29 Sec. 9-301. Persons Who Take Priority Over Unperfected
30 Security Interests; Rights of "Lien Creditor".

1 (1) Except as otherwise provided in subsection (2), an
2 unperfected security interest is subordinate to the rights of

3 (a) persons entitled to priority under Section
4 9-312;

5 (b) a person who becomes a lien creditor before the
6 security interest is perfected;

7 (c) in the case of goods, instruments, documents,
8 and chattel paper, a person who is not a secured party
9 and who is a transferee in bulk or other buyer not in
10 ordinary course of business or is a buyer of farm
11 products in ordinary course of business, to the extent
12 that he gives value and receives delivery of the
13 collateral without knowledge of the security interest and
14 before it is perfected;

15 (d) in the case of accounts, general intangibles,
16 and investment property, a person who is not a secured
17 party and who is a transferee to the extent that he gives
18 value without knowledge of the security interest and
19 before it is perfected;

20 provided, however, that an unperfected security interest
21 shall take priority over the rights of a lien creditor if (i)
22 the lien creditor is a trustee or receiver of a state or
23 federally chartered financial institution acting in
24 furtherance of its supervisory authority over the financial
25 institution and (ii) a security interest is granted by the
26 financial institution to secure a deposit of public funds
27 with the financial institution or a repurchase agreement with
28 the financial institution pursuant to the Government
29 Securities Act of 1986, as amended.

30 (2) If the secured party files with respect to a
31 purchase money security interest before or within 20 days
32 after the debtor receives possession of the collateral, he
33 takes priority over the rights of a transferee in bulk or of
34 a lien creditor which arise between the time the security

1 interest attaches and the time of filing.

2 (3) A "lien creditor" means a creditor who has acquired
3 a lien on the property involved by attachment, levy or the
4 like and includes an assignee for benefit of creditors from
5 the time of assignment, and a trustee in bankruptcy from the
6 date of the filing of the petition or a receiver in equity
7 from the time of appointment.

8 (4) A person who becomes a lien creditor while a
9 security interest is perfected takes subject to the security
10 interest only to the extent that it secures advances made
11 before he becomes a lien creditor or within 45 days
12 thereafter or made without knowledge of the lien or pursuant
13 to a commitment entered into without knowledge of the lien.

14 (Source: P.A. 89-364, eff. 1-1-96; 90-696, eff. 8-7-98.)

15 (Text of Section after amendment by P.A. 91-893)

16 Sec. 9-301. Law governing perfection and priority of
17 security interests. Except as otherwise provided in Sections
18 9-303 through 9-306.1 9-306, the following rules determine
19 the law governing perfection, the effect of perfection or
20 nonperfection, and the priority of a security interest in
21 collateral:

22 (1) Except as otherwise provided in this Section,
23 while a debtor is located in a jurisdiction, the local
24 law of that jurisdiction governs perfection, the effect
25 of perfection or nonperfection, and the priority of a
26 security interest in collateral.

27 (2) While collateral is located in a jurisdiction,
28 the local law of that jurisdiction governs perfection,
29 the effect of perfection or nonperfection, and the
30 priority of a possessory security interest in that
31 collateral.

32 (3) Except as otherwise provided in paragraph (4),
33 while negotiable documents, goods, instruments, money, or
34 tangible chattel paper is located in a jurisdiction, the

1 local law of that jurisdiction governs:

2 (A) perfection of a security interest in the
3 goods by filing a fixture filing;

4 (B) perfection of a security interest in
5 timber to be cut; and

6 (C) the effect of perfection or nonperfection
7 and the priority of a nonpossessory security
8 interest in the collateral.

9 (4) The local law of the jurisdiction in which the
10 wellhead or minehead is located governs perfection, the
11 effect of perfection or nonperfection, and the priority
12 of a security interest in as-extracted collateral.

13 (Source: P.A. 90-696, eff. 8-7-98; 91-893, eff. 7-1-01.)

14 (810 ILCS 5/9-306.1 new)

15 Sec. 9-306.1. Law Governing Perfection and Priority of
16 Collateral Assignments of Beneficial Interests in Illinois
17 Land Trusts. The local law of the State of Illinois governs
18 perfection, the effect of perfection or nonperfection, and
19 the priority of a collateral assignment of, or other security
20 interest in, a beneficial interest in an Illinois land trust.
21 This Section implements the important interest of this State
22 in matters associated with the administration of Illinois
23 land trusts created for the principal purpose of owning an
24 interest in Illinois land and the regulation of restrictions
25 on the transfer of beneficial interests in, and of the power
26 of appointments under, such trusts.

27 (810 ILCS 5/9-310) (from Ch. 26, par. 9-310)

28 (Text of Section before amendment by P.A. 91-893)

29 Sec. 9-310. Priority of certain liens arising by
30 operation of law.

31 When a person in the ordinary course of his business
32 furnishes services or materials with respect to goods subject

1 to a security interest, a lien upon goods in the possession
2 of such person given by statute or rule of law for such
3 materials or services takes priority over a perfected
4 security interest unless the lien is statutory and the
5 statute expressly provides otherwise.

6 (Source: Laws 1961, p. 2101.)

7 (Text of Section after amendment by P.A. 91-893)

8 Sec. 9-310. When filing required to perfect security
9 interest or agricultural lien; security interests and
10 agricultural liens to which filing provisions do not apply.

11 (a) General rule: perfection by filing. Except as
12 otherwise provided in subsection (b) and Section 9-312(b), a
13 financing statement must be filed to perfect all security
14 interests and agricultural liens.

15 (b) Exceptions: filing not necessary. The filing of a
16 financing statement is not necessary to perfect a security
17 interest:

18 (1) that is perfected under Section 9-308(d), (e),
19 (f), or (g);

20 (2) that is perfected under Section 9-309 when it
21 attaches;

22 (3) in property subject to a statute, regulation,
23 or treaty described in Section 9-311(a);

24 (4) in goods in possession of a bailee which is
25 perfected under Section 9-312(d)(1) or (2);

26 (5) in certificated securities, documents, goods,
27 or instruments which is perfected without filing or
28 possession under Section 9-312(e), (f), or (g);

29 (6) in collateral in the secured party's possession
30 under Section 9-313;

31 (7) in a certificated security which is perfected
32 by delivery of the security certificate to the secured
33 party under Section 9-313;

34 (8) in deposit accounts, electronic chattel paper,

1 investment property, ~~or~~ letter-of-credit rights, or
2 beneficial interests in Illinois land trusts which is
3 perfected by control under Section 9-314;

4 (9) in proceeds which is perfected under Section
5 9-315; or

6 (10) that is perfected under Section 9-316.

7 (c) Assignment of perfected security interest. If a
8 secured party assigns a perfected security interest or
9 agricultural lien, a filing under this Article is not
10 required to continue the perfected status of the security
11 interest against creditors of and transferees from the
12 original debtor.

13 (Source: P.A. 91-893, eff. 7-1-01.)

14 (810 ILCS 5/9-312) (from Ch. 26, par. 9-312)

15 (Text of Section before amendment by P.A. 91-893)

16 Sec. 9-312. Priorities Among Conflicting Security
17 Interests in the Same Collateral.

18 (1) The rules of priority stated in other Sections of
19 this Part and in the following Sections shall govern when
20 applicable: Section 4-210 with respect to the security
21 interests of collecting banks in items being collected,
22 accompanying documents and proceeds; Section 9-103 on
23 security interests related to other jurisdictions; Section
24 9-114 on consignments; Section 9-115 on security interests in
25 investment property.

26 (2) A perfected security interest in crops for new value
27 given to enable the debtor to produce the crops during the
28 production season and given not more than three months before
29 the crops become growing crops by planting or otherwise takes
30 priority over an earlier perfected security interest to the
31 extent that such earlier interest secures obligations due
32 more than six months before the crops become growing crops by
33 planting or otherwise, even though the person giving new

1 value had knowledge of the earlier security interest.

2 (3) A perfected purchase money security interest in
3 inventory has priority over a conflicting security interest
4 in the same inventory and also has priority in identifiable
5 cash proceeds received on or before the delivery of the
6 inventory to a buyer if

7 (a) the purchase money security interest is
8 perfected at the time the debtor receives possession of
9 the inventory; and

10 (b) the purchase money secured party gives
11 notification in writing to the holder of the conflicting
12 security interest if the holder had filed a financing
13 statement covering the same types of inventory (i) before
14 the date of the filing made by the purchase money secured
15 party, or (ii) before the beginning of the 21 day period
16 where the purchase money security interest is temporarily
17 perfected without filing or possession (subsection (5) of
18 Section 9-304); and

19 (c) the holder of the conflicting security interest
20 receives the notification within 5 years before the
21 debtor receives possession of the inventory; and

22 (d) the notification states that the person giving
23 the notice has or expects to acquire a purchase money
24 security interest in inventory of the debtor, describing
25 such inventory by item or type.

26 (4) A purchase money security interest in collateral
27 other than inventory has priority over a conflicting security
28 interest in the same collateral or its proceeds if the
29 purchase money security interest is perfected at the time the
30 debtor receives possession of the collateral or within 20
31 days thereafter.

32 (5) In all cases not governed by other rules stated in
33 this Section (including cases of purchase money security
34 interests which do not qualify for the special priorities set

1 forth in subsections (3) and (4) of this Section), priority
2 between conflicting security interests in the same collateral
3 shall be determined according to the following rules:

4 (a) Conflicting security interests rank according
5 to priority in time of filing or perfection. Priority
6 dates from the time a filing is first made covering the
7 collateral or the time the security interest is first
8 perfected, whichever is earlier, provided that there is
9 no period thereafter when there is neither filing nor
10 perfection.

11 (b) So long as conflicting security interests are
12 unperfected, the first to attach has priority.

13 (6) For the purposes of subsection (5) a date of filing
14 or perfection as to collateral is also a date of filing or
15 perfection as to proceeds.

16 (7) If future advances are made while a security
17 interest is perfected by filing, the taking of possession or
18 under Section 9-115 or 9-116 on investment property, the
19 security interest has the same priority for the purposes of
20 subsection (5) with respect to the future advances as it does
21 with respect to the first advance. If a commitment is made
22 before or while the security interest is so perfected, the
23 security interest has the same priority with respect to
24 advances made pursuant thereto. In other cases a perfected
25 security interest has priority from the date the advance is
26 made.

27 (Source: P.A. 89-364, eff. 1-1-96.)

28 (Text of Section after amendment by P.A. 91-893)

29 Sec. 9-312. Perfection of security interests in chattel
30 paper, deposit accounts, documents, goods covered by
31 documents, instruments, investment property, letter-of-credit
32 rights, and money; perfection by permissive filing; temporary
33 perfection without filing or transfer of possession.

34 (a) Perfection by filing permitted. A security interest

1 in chattel paper, negotiable documents, instruments,
2 beneficial interests in Illinois land trusts, or investment
3 property may be perfected by filing.

4 (b) Control or possession of certain collateral. Except
5 as otherwise provided in Section 9-315(c) and (d) for
6 proceeds:

7 (1) a security interest in a deposit account may be
8 perfected only by control under Section 9-314;

9 (2) and except as otherwise provided in Section
10 9-308(d), a security interest in a letter-of-credit right
11 may be perfected only by control under Section 9-314; and

12 (3) a security interest in money may be perfected
13 only by the secured party's taking possession under
14 Section 9-313.

15 (c) Goods covered by negotiable document. While goods
16 are in the possession of a bailee that has issued a
17 negotiable document covering the goods:

18 (1) a security interest in the goods may be
19 perfected by perfecting a security interest in the
20 document; and

21 (2) a security interest perfected in the document
22 has priority over any security interest that becomes
23 perfected in the goods by another method during that
24 time.

25 (d) Goods covered by nonnegotiable document. While
26 goods are in the possession of a bailee that has issued a
27 nonnegotiable document covering the goods, a security
28 interest in the goods may be perfected by:

29 (1) issuance of a document in the name of the
30 secured party;

31 (2) the bailee's receipt of notification of the
32 secured party's interest; or

33 (3) filing as to the goods.

34 (e) Temporary perfection: new value. A security

1 interest in certificated securities, negotiable documents, or
2 instruments is perfected without filing or the taking of
3 possession for a period of 20 days from the time it attaches
4 to the extent that it arises for new value given under an
5 authenticated security agreement.

6 (f) Temporary perfection: goods or documents made
7 available to debtor. A perfected security interest in a
8 negotiable document or goods in possession of a bailee, other
9 than one that has issued a negotiable document for the goods,
10 remains perfected for 20 days without filing if the secured
11 party makes available to the debtor the goods or documents
12 representing the goods for the purpose of:

13 (1) ultimate sale or exchange; or

14 (2) loading, unloading, storing, shipping,
15 transshipping, manufacturing, processing, or otherwise
16 dealing with them in a manner preliminary to their sale
17 or exchange.

18 (g) Temporary perfection: delivery of security
19 certificate or instrument to debtor. A perfected security
20 interest in a certificated security or instrument remains
21 perfected for 20 days without filing if the secured party
22 delivers the security certificate or instrument to the debtor
23 for the purpose of:

24 (1) ultimate sale or exchange; or

25 (2) presentation, collection, enforcement, renewal,
26 or registration of transfer.

27 (h) Expiration of temporary perfection. After the
28 20-day period specified in subsection (e), (f), or (g)
29 expires, perfection depends upon compliance with this
30 Article.

31 (Source: P.A. 91-893, eff. 7-1-01.)

32 (810 ILCS 5/9-314) (from Ch. 26, par. 9-314)

33 (Text of Section before amendment by P.A. 91-893)

1 Sec. 9-314. Accessions.

2 (1) A security interest in goods which attaches before
3 they are installed in or affixed to other goods takes
4 priority as to the goods installed or affixed (called in this
5 section "accessions") over the claims of all persons to the
6 whole except as stated in subsection (3) and subject to
7 Section 9--315(1).

8 (2) A security interest which attaches to goods after
9 they become part of a whole is valid against all persons
10 subsequently acquiring interests in the whole except as
11 stated in subsection (3) but is invalid against any person
12 with an interest in the whole at the time the security
13 interest attaches to the goods who has not in writing
14 consented to the security interest or disclaimed an interest
15 in the goods as part of the whole.

16 (3) The security interests described in subsections (1)
17 and (2) do not take priority over

18 (a) a subsequent purchaser for value of any
19 interest in the whole; or

20 (b) a creditor with a lien on the whole
21 subsequently obtained by judicial proceedings; or

22 (c) a creditor with a prior perfected security
23 interest in the whole to the extent that he makes subsequent
24 advances if the subsequent purchase is made, the lien by
25 judicial proceedings obtained or the subsequent advance under
26 the prior perfected security interest is made or contracted
27 for without knowledge of the security interest and before it
28 is perfected. A purchaser of the whole at a foreclosure sale
29 other than the holder of a perfected security interest
30 purchasing at his own foreclosure sale is a subsequent
31 purchaser within this Section.

32 (4) When under subsections (1) or (2) and (3) a secured
33 party has an interest in accessions which has priority over
34 the claims of all persons who have interests in the whole, he

1 may on default subject to the provisions of Part 5 remove his
 2 collateral from the whole but he must reimburse any
 3 encumbrancer or owner of the whole who is not the debtor and
 4 who has not otherwise agreed for the cost of repair of any
 5 physical injury but not for any diminution in value of the
 6 whole caused by the absence of the goods removed or by any
 7 necessity for replacing them. A person entitled to
 8 reimbursement may refuse permission to remove until the
 9 secured party gives adequate security for the performance of
 10 this obligation.

11 (Source: Laws 1961, p. 2101.)

12 (Text of Section after amendment by P.A. 91-893)

13 Sec. 9-314. Perfection by control.

14 (a) Perfection by control. A security interest in
 15 investment property, deposit accounts, electronic chattel
 16 paper, letter-of-credit rights, or beneficial interests in
 17 Illinois land trusts ~~electronic--chattel--paper~~ may be
 18 perfected by control of the collateral under Section 9-104,
 19 9-105, 9-106, ~~or 9-107,~~ or 9-107.1.

20 (b) Specified collateral: time of perfection by
 21 control; continuation of perfection. A security interest in
 22 deposit accounts, electronic chattel paper, ~~or~~
 23 letter-of-credit rights, or beneficial interests in Illinois
 24 land trusts is perfected by control under Section 9-104,
 25 9-105, ~~or 9-107,~~ or 9-107.1 when the secured party obtains
 26 control and remains perfected by control only while the
 27 secured party retains control.

28 (c) Investment property: time of perfection by control;
 29 continuation of perfection. A security interest in
 30 investment property is perfected by control under Section
 31 9-106 from the time the secured party obtains control and
 32 remains perfected by control until:

- 33 (1) the secured party does not have control; and
- 34 (2) one of the following occurs:

1 (A) if the collateral is a certificated
2 security, the debtor has or acquires possession of
3 the security certificate;

4 (B) if the collateral is an uncertificated
5 security, the issuer has registered or registers the
6 debtor as the registered owner; or

7 (C) if the collateral is a security
8 entitlement, the debtor is or becomes the
9 entitlement holder.

10 (Source: P.A. 91-893, eff. 7-1-01.)

11 (810 ILCS 5/9-322)

12 (This Section may contain text from a Public Act with a
13 delayed effective date)

14 Sec. 9-322. Priorities among conflicting security
15 interests in and agricultural liens on same collateral.

16 (a) General priority rules. Except as otherwise
17 provided in this Section, priority among conflicting security
18 interests and agricultural liens in the same collateral is
19 determined according to the following rules:

20 (1) Conflicting perfected security interests and
21 agricultural liens rank according to priority in time of
22 filing or perfection. Priority dates from the earlier of
23 the time a filing covering the collateral is first made
24 or the security interest or agricultural lien is first
25 perfected, if there is no period thereafter when there is
26 neither filing nor perfection.

27 (2) A perfected security interest or agricultural
28 lien has priority over a conflicting unperfected security
29 interest or agricultural lien.

30 (3) The first security interest or agricultural
31 lien to attach or become effective has priority if
32 conflicting security interests and agricultural liens are
33 unperfected.

1 (b) Time of perfection: proceeds and supporting
2 obligations. For the purposes of subsection (a)(1):

3 (1) the time of filing or perfection as to a
4 security interest in collateral is also the time of
5 filing or perfection as to a security interest in
6 proceeds; and

7 (2) the time of filing or perfection as to a
8 security interest in collateral supported by a supporting
9 obligation is also the time of filing or perfection as to
10 a security interest in the supporting obligation.

11 (c) Special priority rules: proceeds and supporting
12 obligations. Except as otherwise provided in subsection (f),
13 a security interest in collateral which qualifies for
14 priority over a conflicting security interest under Section
15 9-327, 9-328, 9-329, 9-329.1, 9-330, or 9-331 also has
16 priority over a conflicting security interest in:

17 (1) any supporting obligation for the collateral;
18 and

19 (2) proceeds of the collateral if:

20 (A) the security interest in proceeds is
21 perfected;

22 (B) the proceeds are cash proceeds or of the
23 same type as the collateral; and

24 (C) in the case of proceeds that are proceeds
25 of proceeds, all intervening proceeds are cash
26 proceeds, proceeds of the same type as the
27 collateral, or an account relating to the
28 collateral.

29 (d) First-to-file priority rule for certain collateral.
30 Subject to subsection (e) and except as otherwise provided in
31 subsection (f), if a security interest in chattel paper,
32 deposit accounts, negotiable documents, instruments,
33 investment property, ~~or~~ letter-of-credit rights, or
34 beneficial interests in Illinois land trusts is perfected by

1 a method other than filing, conflicting perfected security
2 interests in proceeds of the collateral rank according to
3 priority in time of filing.

4 (e) Applicability of subsection (d). Subsection (d)
5 applies only if the proceeds of the collateral are not cash
6 proceeds, chattel paper, negotiable documents, instruments,
7 investment property, beneficial interests in Illinois land
8 trusts, or letter-of-credit rights.

9 (f) Limitations on subsections (a) through (e).
10 Subsections (a) through (e) are subject to:

11 (1) subsection (g) and the other provisions of this
12 Part;

13 (2) Section 4-210 with respect to a security
14 interest of a collecting bank;

15 (3) Section 5-118 with respect to a security
16 interest of an issuer or nominated person; and

17 (4) Section 9-110 with respect to a security
18 interest arising under Article 2 or 2A.

19 (g) Priority under agricultural lien statute. A
20 perfected agricultural lien on collateral has priority over a
21 conflicting security interest in or agricultural lien on the
22 same collateral if the statute creating the agricultural lien
23 so provides.

24 (Source: P.A. 91-893, eff. 7-1-01.)

25 (810 ILCS 5/9-329.1 new)

26 Sec. 9-329.1. Priority of Security Interests in
27 Beneficial Interest in an Illinois Land Trust. The following
28 rules govern priority among conflicting security interests in
29 the same beneficial interest in an Illinois land trust:

30 (1) A security interest held by a secured party
31 having control of the beneficial interest under Section
32 9-107.1 has priority to the extent of its control over a
33 conflicting security interest held by a secured party

1 that does not have control.

2 (2) Security interests perfected by control under
3 Section 9-314 rank according to priority in time of
4 obtaining control.

5 Section 95. No acceleration or delay. Where this Act
6 makes changes in a statute that is represented in this Act by
7 text that is not yet or no longer in effect (for example, a
8 Section represented by multiple versions), the use of that
9 text does not accelerate or delay the taking effect of (i)
10 the changes made by this Act or (ii) provisions derived from
11 any other Public Act.