

## CHAPTER 94

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**CONSUMER AND COMMERCIAL TRANSACTIONS**

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HOUSE BILL 07-1214

BY REPRESENTATIVE(S) Cerbo, and McGihon;  
also SENATOR(S) Shaffer.**AN ACT****CONCERNING THE ADOPTION OF THE MOST RECENT CHANGES TO ARTICLE 7 OF THE "UNIFORM COMMERCIAL CODE" PROPOSED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 4-7-102 (b) (2), Colorado Revised Statutes, is amended to read:**4-7-102. Definitions and index of definitions.** (b) Definitions in other articles applying to this article and the sections in which they appear are:

(2) "Lessee in THE ordinary course of business", section 4-2.5-103;

**SECTION 2.** 4-7-103, Colorado Revised Statutes, is amended to read:**4-7-103. Relation of article to treaty or statute.** (a) This article is subject to any treaty or statute of the United States or a regulatory statute of this state to the extent the treaty, statute, or regulatory statute is applicable.(b) This article does not MODIFY OR repeal ~~or modify~~ any law prescribing the form or ~~contents~~ CONTENT of a document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a bailee's ~~businesses~~ BUSINESS in respects not specifically treated in this article. However, violation of ~~these laws~~ SUCH A LAW does not affect the status of a document of title that otherwise ~~complies with~~ IS WITHIN the definition of a document of title.

(c) THIS ARTICLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT,

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

15 U.S.C. SEC. 7001 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

(d) TO THE EXTENT THERE IS A CONFLICT BETWEEN THE "UNIFORM ELECTRONIC TRANSACTIONS ACT", ARTICLE 71.3 OF TITLE 24, C.R.S., AND THIS ARTICLE, THIS ARTICLE GOVERNS.

**SECTION 3.** 4-7-104 (a), Colorado Revised Statutes, is amended to read:

**4-7-104. Negotiable and nonnegotiable document of title.** (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (c) OF THIS SECTION, a document of title is negotiable if by its terms the goods are to be delivered to the bearer or to the order of a named person.

**SECTION 4.** The introductory portion to 4-7-105 (d), Colorado Revised Statutes, is amended to read:

**4-7-105. Reissuance in alternative medium.** (d) Upon issuance of ~~the~~ AN electronic document of title in substitution for a tangible document of title in accordance with subsection (c) of this section:

**SECTION 5.** 4-7-106 (b) (1), Colorado Revised Statutes, is amended to read:

**4-7-106. Control of electronic document of title.** (b) A system satisfies subsection (a) of this section, and a person is deemed to have control of an electronic document of title, if the document is created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the document exists ~~that~~ WHICH is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6) of this subsection (b), unalterable;

**SECTION 6. Repeal.** 4-7-107, Colorado Revised Statutes, is repealed as follows:

**4-7-107. Relation to federal "Electronic Signatures in Global and National Commerce Act".** ~~This article modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersede section 101 (c) of that act, codified at 15 U.S.C. sec. 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, codified at 15 U.S.C. sec. 7003 (b).~~

**SECTION 7.** The introductory portion to 4-7-202 (b) and 4-7-202 (b) (1), (b) (5), (b) (8), (b) (9), and (c), Colorado Revised Statutes, are amended to read:

**4-7-202. Form of warehouse receipt - effect of omission.** (b) Unless a warehouse receipt provides for each of the following, the warehouse is liable for damages caused to a person injured by ~~the~~ ITS omission:

(1) A STATEMENT OF the location of the warehouse facility where the goods are stored;

(5) The rate of storage and handling charges, ~~but if~~ UNLESS goods are stored under a field warehousing arrangement, IN WHICH CASE a statement of that fact is sufficient on a nonnegotiable receipt;

(8) If the receipt is issued for goods that the warehouse owns, either solely, jointly, or in common with others, A STATEMENT OF the fact of that ownership; and

(9) A statement of the amount of advances made and of liabilities incurred for which the warehouse claims a lien or security interest, ~~but if~~ UNLESS the precise amount of advances made or ~~of~~ liabilities incurred, ~~is~~, at the time of the issue of the receipt, IS unknown to the warehouse or to its agent that issued the receipt, IN WHICH CASE a statement of the fact that advances have been made or liabilities incurred and the purpose of the advances or liabilities is sufficient.

(c) A warehouse may insert in its receipt any terms that are not contrary to the provisions of this title and do not impair its obligation of delivery under section 4-7-403 or its duty of care under section 4-7-204. Any contrary ~~provisions are~~ PROVISION IS ineffective.

**SECTION 8.** 4-7-204 (a) and (b), Colorado Revised Statutes, are amended to read:

**4-7-204. Duty of care - contractual limitation of warehouse's liability.** (a) A warehouse is liable for damages for loss of or injury to the goods caused by its failure to exercise care with regard to the goods that a reasonably careful person would exercise under similar circumstances. ~~However,~~ UNLESS otherwise agreed, the warehouse is not liable for damages that could not have been avoided by the exercise of that care.

(b) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage beyond which the warehouse is not liable. ~~No~~ Such A limitation is NOT effective with respect to the warehouse's liability for conversion to its own use. ~~The warehouse's liability;~~ On request of the bailor in a record at the time of signing ~~such~~ THE storage agreement or within a reasonable time after receipt of the warehouse receipt, THE WAREHOUSE'S LIABILITY may be increased on part or all of the goods covered by the storage agreement or the warehouse receipt. In this event, increased rates may be charged based on an increased valuation of the goods.

**SECTION 9.** 4-7-209 (b) and (c) (1), Colorado Revised Statutes, are amended to read:

**4-7-209. Lien of warehouse.** (b) ~~The~~ A warehouse may also reserve a security interest ~~under article 9 of this title~~ against the bailor for the maximum amount specified on the receipt for charges other than those specified in subsection (a) of this section, such as for money advanced and interest. ~~A~~ THE security interest is governed by article 9 of this title.

(c) A warehouse's lien for charges and expenses under subsection (a) of this section or a security interest under subsection (b) of this section is also effective against any person that so entrusted the bailor with possession of the goods that a

pledge of them by the bailor to a good faith purchaser for value would have been valid. However, the lien or security interest is not effective against a person that before issuance of a document of title had a legal interest or a perfected security interest in the goods and that did not:

(1) Deliver or entrust the goods or any document OF TITLE covering the goods to the bailor or the bailor's nominee with:

(A) Actual or apparent authority to ship, store, or sell; ~~or with~~

(B) Power to obtain delivery under section 4-7-403; or ~~with~~

(C) Power of disposition under section 4-2-403, 4-2.5-304 (2), 4-2.5-305 (2), ~~or~~ 4-9-320, OR 4-9-321 (c) or other statute or rule of law; or

**SECTION 10.** 4-7-210 (a), the introductory portion to 4-7-210 (b), and 4-7-210 (b) (5), Colorado Revised Statutes, are amended to read:

**4-7-210. Enforcement of warehouse's lien.** (a) Except as otherwise provided in subsection (b) of this section, a warehouse's lien may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification ~~shall~~ MUST include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a METHOD different ~~method~~ from that selected by the warehouse is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The warehouse ~~has sold~~ SELLS in a commercially reasonable manner if the warehouse sells the goods in the usual manner in any recognized market therefore, sells at the price current in that market at the time of the sale, or ~~has otherwise sold~~ SELLS in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(b) A ~~warehouse's~~ WAREHOUSE MAY ENFORCE ITS lien on goods, other than goods stored by a merchant in the course of its business, ~~may be enforced~~ only if the following requirements are satisfied:

(5) After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account the goods are being held, and the time and place of the sale. The sale must take place at least fifteen days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least ten days before the sale in not ~~less~~ FEWER than six conspicuous places in the neighborhood of the proposed sale.

**SECTION 11.** 4-7-301, Colorado Revised Statutes, is amended to read:

**4-7-301. Liability for nonreceipt or misdescription - "said to contain" - "shipper's weight, load, and count" - improper handling.** (a) A consignee of a nonnegotiable bill of lading ~~that~~ WHICH has given value in good faith, or a holder to which a negotiable bill has been duly negotiated, relying upon the description of the goods in the bill or upon the date shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the ~~document of title~~ BILL indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, such as in a case in which the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load, and count", or words of similar import, if that indication is true.

(b) If goods are loaded by the issuer of ~~the~~ A bill of lading:

(1) The issuer ~~must~~ SHALL count the packages of goods if shipped in packages and ascertain the kind and quantity if shipped in bulk; and

(2) Words such as "shipper's weight, load, and count" or words of similar import indicating that the description was made by the shipper are ineffective except as to goods concealed ~~by~~ IN packages.

(c) If bulk goods are loaded by a shipper that makes available to the issuer of ~~the~~ A bill of lading adequate facilities for weighing those goods, the issuer ~~must~~ SHALL ascertain the kind and quantity within a reasonable time after receiving the shipper's request in a record to do so. In that case, "shipper's weight" or words of similar import are ineffective.

(d) The issuer OF A BILL OF LADING, by including in the bill ~~of lading~~ the words "shipper's weight, load, and count" or words of similar import, may indicate that the goods were loaded by the shipper, and, if that statement is true, the issuer is not liable for damages caused by the improper loading. However, omission of such words does not imply liability for damages caused by improper loading.

(e) A shipper guarantees to ~~the~~ AN issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition, and weight, as furnished by the shipper, and the shipper shall indemnify the issuer against damage caused by inaccuracies in those particulars. This right of ~~the issuer to that~~ indemnity does not limit ~~its~~ THE ISSUER'S responsibility or liability under the contract of carriage to any person other than the shipper.

**SECTION 12.** 4-7-302, Colorado Revised Statutes, is amended to read:

**4-7-302. Through bills of lading and similar documents of title.** (a) The issuer of a through bill of lading, or other document of title embodying an undertaking to be performed in part by a person acting as its agent or by a performing carrier, is liable to any person entitled to recover on the BILL OR OTHER document for any breach by the other person or the performing carrier of its obligation under the BILL OR OTHER document. However, to the extent that the bill OR OTHER DOCUMENT covers an undertaking to be performed overseas or in territory

not contiguous to the continental United States or an undertaking including matters other than transportation, this liability for breach by the other person or the performing carrier may be varied by agreement of the parties.

(b) If goods covered by a through bill of lading or other document of title embodying an undertaking to be performed in part by a person other than the issuer are received by that person, the person is subject, with respect to its own performance while the goods are in its possession, to the obligation of the issuer. The person's obligation is discharged by delivery of the goods to another person pursuant to the BILL OR OTHER document and does not include liability for breach by any other person or by the issuer.

(c) The issuer of a through bill of lading or other document of title described in subsection (a) of this section is entitled to recover from the performing carrier, or other person in possession of the goods when the breach of the obligation under the BILL OR OTHER document occurred:

(1) The amount it may be required to pay to any person entitled to recover on the BILL OR OTHER document for the breach, as may be evidenced by any receipt, judgment, or transcript OF JUDGMENT; and

(2) The amount of any expense reasonably incurred by the issuer in defending any action commenced by any person entitled to recover on the BILL OR OTHER document for the breach.

**SECTION 13.** 4-7-304 (e), Colorado Revised Statutes, is amended to read:

**4-7-304. Tangible bills of lading in a set.** (e) The bailee ~~is obliged to~~ SHALL deliver in accordance with part 4 of this article against the first presented part of a tangible bill of lading lawfully issued in a set. Delivery in this manner discharges the bailee's obligation on the whole bill.

**SECTION 14.** 4-7-308 (a), Colorado Revised Statutes, is amended to read:

**4-7-308. Enforcement of carrier's lien.** (a) A carrier's lien on goods may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification ~~shall~~ MUST include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a METHOD different ~~method~~ from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The carrier ~~has sold~~ SELLS goods in a commercially reasonable manner if the carrier sells the goods in the usual manner in any recognized market therefor, sells at the price current in that market at the time of the sale, or ~~has~~ otherwise ~~sold~~ SELLS in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

**SECTION 15.** 4-7-309 (a) and (b), Colorado Revised Statutes, are amended to

read:

**4-7-309. Duty of care - contractual limitation of carrier's liability.** (a) A carrier that issues a bill of lading, whether negotiable or nonnegotiable, ~~must~~ SHALL exercise the degree of care in relation to the goods ~~that~~ WHICH a reasonably careful person would exercise under similar circumstances. This subsection (a) does not affect any statute, regulation, or rule of law that imposes liability upon a common carrier for damages not caused by its negligence.

(b) Damages may be limited by a term in the bill of lading that the carrier's liability may not exceed a value stated in the bill if the carrier's rates are dependent upon value and the consignor is afforded an opportunity to declare a higher value and the consignor is advised of the opportunity. However, ~~no~~ such A limitation is NOT effective with respect to the carrier's liability for conversion to its own use.

**SECTION 16.** 4-7-401 (1), Colorado Revised Statutes, is amended to read:

**4-7-401. Irregularities in issue of receipt or bill or conduct of issuer.** The obligations imposed by this article on an issuer apply to a document of title even if:

(1) The document does not comply with the requirements of this article or of any other statute, rule, or regulation regarding its ~~issue~~ ISSUANCE, form, or content;

**SECTION 17.** The introductory portion to 4-7-403 (a), 4-7-403 (a) (6) and (b), the introductory portion to 4-7-403 (c), and 4-7-403 (c) (2), Colorado Revised Statutes, are amended to read:

**4-7-403. Obligation of bailee to deliver - excuse.** (a) A bailee shall deliver the goods to a person entitled under a document of title ~~that~~ IF THE PERSON complies with subsections (b) and (c) of this section, unless and to the extent that the bailee establishes any of the following:

(6) Release, satisfaction, or any other ~~fact affording~~ a personal defense against the claimant; or

(b) A person claiming goods covered by a document of title shall satisfy the bailee's lien if the bailee so requests or IF the bailee is prohibited by law from delivering the goods until the charges are paid.

(c) Unless a person claiming the goods is ~~one~~ A PERSON against which the document of title does not confer a right under section 4-7-503 (a):

(2) The bailee shall cancel the document or conspicuously indicate in the document the partial delivery or ~~be~~ THE BAILEE IS liable to any person to which the document is duly negotiated.

**SECTION 18.** 4-7-501 (a) (4), Colorado Revised Statutes, is amended to read:

**4-7-501. Form of negotiation and requirements of due negotiation.** (a) The following rules apply to a negotiable tangible document of title:

(4) Negotiation of the document after it has been indorsed to a named person requires indorsement by the named person ~~as well as~~ AND delivery.

**SECTION 19.** 4-7-502 (a) (4), Colorado Revised Statutes, is amended to read:

**4-7-502. Rights acquired by due negotiation.** (a) Subject to sections 4-7-205 and 4-7-503, a holder to which a negotiable document of title has been duly negotiated acquires thereby:

(4) The direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by the issuer except those arising under the terms of the document or under this article, BUT in the case of a delivery order, the bailee's obligation accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

**SECTION 20.** 4-7-503 (a) (1), Colorado Revised Statutes, is amended to read:

**4-7-503. Document of title to goods defeated in certain cases.** (a) A document of title confers no right in goods against a person that, before issuance of the document, had a legal interest or a perfected security interest in the goods and that did not:

(1) Deliver or entrust the goods or any document OF TITLE covering the goods to the bailor or the bailor's nominee with:

(A) Actual or apparent authority to ship, store, or sell; ~~with~~

(B) Power to obtain delivery under section 4-7-403; or ~~with~~

(C) Power of disposition under section 4-2-403, 4-2.5-304 (2), 4-2.5-305 (2), ~~or~~ 4-9-320, OR 4-9-321 (c) or other statute or rule of law; or

**SECTION 21.** The introductory portion to 4-7-504 (b) and 4-7-504 (b) (1), (c), and (d), Colorado Revised Statutes, are amended to read:

**4-7-504. Rights acquired in absence of due negotiation - effect of diversion - stoppage of delivery.** (b) In the case of a TRANSFER OF A nonnegotiable document of title, until but not after the bailee receives notice of the transfer, the rights of the transferee may be defeated:

(1) By those creditors of the transferor ~~that~~ WHICH could treat the transfer as void under section 4-2-402 or 4-2.5-308;

(c) A diversion or other change of shipping instructions by the consignor in a nonnegotiable bill of lading ~~that~~ WHICH causes the bailee not to deliver the goods to the consignee defeats the consignee's title to the goods if the goods have been delivered to a buyer in ordinary course of business or a lessee in ordinary course of business and, in any event, defeats the consignee's rights against the bailee.

(d) Delivery of the goods pursuant to a nonnegotiable document of title may be



stopped by a seller under section 4-2-705 or a lessor under section 4-2.5-526, subject to the requirements of due notification in those sections. A bailee ~~honoring~~ THAT HONORS the seller's or lessor's instructions is entitled to be indemnified by the seller or lessor against any resulting loss or expense.

**SECTION 22.** The introductory portion to 4-7-507, Colorado Revised Statutes, is amended to read:

**4-7-507. Warranties on negotiation or delivery of document of title.** If a person negotiates or delivers a document of title for value, otherwise than as a mere intermediary under section 4-7-508, unless otherwise agreed, the transferor, ~~warrants to its immediate purchaser only~~ in addition to any warranty made in selling or leasing the goods, WARRANTS TO ITS IMMEDIATE PURCHASER ONLY that:

**SECTION 23.** 4-7-601, Colorado Revised Statutes, is amended to read:

**4-7-601. Lost, stolen, or destroyed documents of title.** (a) If a document of title is lost, stolen, or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with the order. If the document was negotiable, a court may not order delivery of the goods or issuance of a substitute document without the claimant's posting security unless it finds that any person that may suffer loss as a result of nonsurrender of possession or control of the document is adequately protected against the loss. If the document was nonnegotiable, the court may require security. The court may ALSO order payment of the bailee's reasonable costs and attorney's fees in any action under this subsection (a).

(b) A bailee that, without A court order, delivers goods to a person claiming under a missing negotiable document of title is liable to any person injured thereby. If the delivery is not in good faith, the bailee is liable for conversion. Delivery in good faith is not conversion if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person that is injured by the delivery and that files a notice of claim within one year after the delivery.

**SECTION 24.** 4-7-602, Colorado Revised Statutes, is amended to read:

**4-7-602. Attachment of goods covered by negotiable document of title.** Unless ~~the~~ A document of title was originally issued upon delivery of the goods by a person that did not have power to dispose of them, a lien does not attach by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless possession or control of the document is first surrendered to the bailee or the document's negotiation is enjoined. The bailee may not be compelled to deliver the goods pursuant to process until possession or control of the document is surrendered to the bailee or to the court. A purchaser of the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

**SECTION 25.** 4-7-702, Colorado Revised Statutes, is amended to read:

**4-7-702. Applicability.** This article applies to a document of title that is issued

or a bailment that arises on or after September 1, 2006. This article does not apply to a document of title that is issued or a bailment that arises before September 1, 2006, even if the document of title or bailment would be subject to this article if the document of title had been issued or bailment had arisen ON OR after September 1, 2006. This article does not apply to a right of action that has accrued before September 1, 2006.

**SECTION 26.** 4-1-201 (b) (5), (b) (15), (b) (20) (A), and (b) (20) (C), Colorado Revised Statutes, are amended to read:

**4-1-201. General definitions.** (b) Subject to definitions contained in other articles of this title that apply to particular articles or parts thereof:

(5) "Bearer" means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, a negotiable tangible document of title, or a certificated security that is payable to bearer or indorsed in blank.

(15) "Document of title" means a record (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods the record covers and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession ~~that~~ WHICH are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. An electronic document of title ~~is~~ MEANS A DOCUMENT OF TITLE evidenced by a record consisting of information stored in an electronic medium. A tangible document of title ~~is~~ MEANS A DOCUMENT OF TITLE evidenced by a record consisting of information that is inscribed on a tangible medium.

(20) "Holder" means:

(A) The person in possession of ~~the~~ A negotiable instrument ~~if it~~ THAT is payable either to bearer or to an identified person that is the person in possession;

(C) ~~A~~ THE person in control of a negotiable electronic document of title.

**SECTION 27.** 4-2-103 (3), Colorado Revised Statutes, is amended to read:

**4-2-103. Definitions and index of definitions.** (3) "CONTROL" AS PROVIDED IN SECTION 4-7-106 AND the following definitions in other articles apply to this article:

"Check". Section 4-3-104.

"Consignee". Section 4-7-102.

"Consignor". Section 4-7-102.

"Consumer goods". Section 4-9-102.

~~"Control". Section 4-7-106.~~

"Dishonor". Section 4-3-502.

"Draft". Section 4-3-104.

**SECTION 28.** 4-4-104 (c), Colorado Revised Statutes, is amended to read:

**4-4-104. Definitions and index of definitions.** (c) "CONTROL" AS PROVIDED IN SECTION 4-7-106 AND the following definitions in other articles of this title apply to this article:

"Acceptance"	Section 4-3-409
"Alteration"	Section 4-3-407
"Cashier's check"	Section 4-3-104
"Certificate of deposit"	Section 4-3-104
"Certified check"	Section 4-3-409
"Check"	Section 4-3-104
<del>"Control"</del>	<del>Section 4-7-106</del>
<del>"Draft"</del>	<del>Section 4-3-104</del>
"Good faith"	Section 4-3-103
"Holder in due course"	Section 4-3-302
"Instrument"	Section 4-3-104
"Notice of dishonor"	Section 4-3-503
"Order"	Section 4-3-103
"Ordinary care"	Section 4-3-103
"Person entitled to enforce"	Section 4-3-301
"Presentment"	Section 4-3-501
"Promise"	Section 4-3-103
"Prove"	Section 4-3-103
"Teller's check"	Section 4-3-104
"Unauthorized signature"	Section 4-3-403

**SECTION 29.** 4-8-103 (g), Colorado Revised Statutes, is amended to read:

**4-8-103. Rules for determining whether certain obligations and interests are securities or financial assets.** (g) A document of title ~~as defined in section 4-1-201 (b) (15)~~; is not a financial asset unless section 4-8-102 (a) (9) (iii) applies.

**SECTION 30.** 4-9-102 (b), Colorado Revised Statutes, is amended to read:

**4-9-102. Definitions and index of definitions.** (b) "CONTROL" AS PROVIDED IN SECTION 4-7-106 AND the following definitions in other articles apply to this article:

"Applicant"	Section 4-5-102.
"Beneficiary"	Section 4-5-102.
"Broker"	Section 4-8-102.
"Certificated security"	Section 4-8-102.
"Check"	Section 4-3-104.
"Clearing corporation"	Section 4-8-102.
"Contract for sale"	Section 4-2-106.
<del>"Control" (with respect to a document of title)</del>	<del>Section 4-7-106.</del>
"Customer"	Section 4-4-104.
"Entitlement holder"	Section 4-8-102.
"Financial asset"	Section 4-8-102.
"Holder in due course"	Section 4-3-302.
"Issuer" (with respect to a letter of credit or letter-of-credit right)	Section 4-5-102.
"Issuer" (with respect to a security)	Section 4-8-201.
"ISSUER" (WITH RESPECT TO DOCUMENTS OF TITLE)	SECTION 4-7-102.
"Lease"	Section 4-2.5-103.
"Lease agreement"	Section 4-2.5-103.
"Lease contract"	Section 4-2.5-103.
"Leasehold interest"	Section 4-2.5-103.
"Lessee"	Section 4-2.5-103.

"Lessee in ordinary course of business"	Section 4-2.5-103.
"Lessor"	Section 4-2.5-103.
"Lessor's residual interest"	Section 4-2.5-103.
"Letter of credit"	Section 4-5-102.
"Merchant"	Section 4-2-104.
"Negotiable instrument"	Section 4-3-104.
"Nominated person"	Section 4-5-102.
"Note"	Section 4-3-104.
"Proceeds of a letter of credit"	Section 4-5-114.
"Prove"	Section 4-3-103.
"Sale"	Section 4-2-106.
"Securities account"	Section 4-8-501.
"Securities intermediary"	Section 4-8-102.
"Security"	Section 4-8-102.
"Security certificate"	Section 4-8-102.
"Security entitlement"	Section 4-8-102.
"Uncertificated security"	Section 4-8-102.

**SECTION 31. Effective date - applicability.** (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to acts occurring on or after the applicable effective date of this act.

Approved: April 2, 2007