

1 AN ACT in relation to commercial 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 Section 9-102 and adding Article 2B and Sections
6 9-103A and 9-324A as follows:

7 (810 ILCS 5/Article 2B heading new)

8 ARTICLE 2B

9 GUARANTEED PREPAYMENTS OF AGRICULTURAL GOODS

10 (810 ILCS 5/Article 2B, Part 1 heading new)

11 PART 1. SHORT TITLE, GENERAL CONSTRUCTION AND SUBJECT MATTER

12 (810 ILCS 5/2B-101 new)

13 Sec. 2B-101. Short title. This Article shall be known
14 and may be cited as Uniform Commercial Code-Guaranteed
15 Prepayments of Agricultural Goods.

16 (810 ILCS 5/2B-102 new)

17 Sec. 2B-102. Scope; limitation to agricultural good
18 transactions. Unless the context otherwise requires, this
19 Article applies to transactions in agricultural goods; it
20 does not apply to any transaction which does not include
21 agricultural goods.

22 (810 ILCS 5/2B-103 new)

23 Sec. 2B-103. Definitions and index of definitions.

24 (1) In this Article unless the context otherwise
25 requires:

26 (a) "Agricultural goods" means any product used in
27 or for production agriculture.

1 (b) "Production agriculture" means the raising of or
 2 the propagation of livestock; crops for sale for human
 3 consumption; crops for livestock consumption; and
 4 production seed stock grown for the propagation of feed
 5 grains and the husbandry of animals or for the purpose of
 6 providing a food product, including the husbandry of
 7 blood stock as a main source of providing a food product.
 8 "Production agriculture" also means animal husbandry,
 9 floriculture, aquaculture, horticulture, and viticulture.

10 (810 ILCS 5/Article 2B, Part 2 heading new)

11 PART 2. ESTABLISHMENT OF AGRICULTURAL GOODS PREPAYMENT

12 GUARANTEE

13 (810 ILCS 5/2B-201 new)

14 Sec. 2B-201. Prepayment Guarantee.

15 (1) For the purposes of this Article, a purchase takes
 16 place when a purchaser pays for agricultural goods to be
 17 delivered immediately or at a later date.

18 (2) In the event that the recipient of monies for
 19 agricultural goods becomes insolvent, the purchaser shall
 20 receive a payment equal to the monies paid for agricultural
 21 goods not delivered.

22 (3) In the event that the recipient of monies for
 23 agricultural goods enters into insolvency proceedings, the
 24 purchaser shall serve as the first secured creditor in the
 25 insolvency proceedings.

26 (810 ILCS 5/9-102) (from Ch. 26, par. 9-102)

27 Sec. 9-102. Definitions and index of definitions.

28 (a) Article 9 definitions. In this Article:

29 (1) "Accession" means goods that are physically
 30 united with other goods in such a manner that the
 31 identity of the original goods is not lost.

1 (2) "Account", except as used in "account for",
2 means a right to payment of a monetary obligation,
3 whether or not earned by performance, (i) for property
4 that has been or is to be sold, leased, licensed,
5 assigned, or otherwise disposed of, (ii) for services
6 rendered or to be rendered, (iii) for a policy of
7 insurance issued or to be issued, (iv) for a secondary
8 obligation incurred or to be incurred, (v) for energy
9 provided or to be provided, (vi) for the use or hire of a
10 vessel under a charter or other contract, (vii) arising
11 out of the use of a credit or charge card or information
12 contained on or for use with the card, or (viii) as
13 winnings in a lottery or other game of chance operated or
14 sponsored by a State, governmental unit of a State, or
15 person licensed or authorized to operate the game by a
16 State or governmental unit of a State. The term includes
17 health-care-insurance receivables. The term does not
18 include (i) rights to payment evidenced by chattel paper
19 or an instrument, (ii) commercial tort claims, (iii)
20 deposit accounts, (iv) investment property, (v)
21 letter-of-credit rights or letters of credit, or (vi)
22 rights to payment for money or funds advanced or sold,
23 other than rights arising out of the use of a credit or
24 charge card or information contained on or for use with
25 the card.

26 (3) "Account debtor" means a person obligated on an
27 account, chattel paper, or general intangible. The term
28 does not include persons obligated to pay a negotiable
29 instrument, even if the instrument constitutes part of
30 chattel paper.

31 (4) "Accounting", except as used in "accounting
32 for", means a record:

- 33 (A) authenticated by a secured party;
- 34 (B) indicating the aggregate unpaid secured

1 obligations as of a date not more than 35 days
2 earlier or 35 days later than the date of the
3 record; and

4 (C) identifying the components of the
5 obligations in reasonable detail.

6 (5) "Agricultural lien" means an interest, other
7 than a security interest, in farm products:

8 (A) which secures payment or performance of an
9 obligation for goods or services furnished in
10 connection with a debtor's farming operation;

11 (B) which is created by statute in favor of a
12 person that in the ordinary course of its business
13 furnished goods or services to a debtor in
14 connection with a debtor's farming operation; and

15 (C) whose effectiveness does not depend on the
16 person's possession of the personal property.

17 (6) "As-extracted collateral" means:

18 (A) oil, gas, or other minerals that are
19 subject to a security interest that:

20 (i) is created by a debtor having an
21 interest in the minerals before extraction; and

22 (ii) attaches to the minerals as
23 extracted; or

24 (B) accounts arising out of the sale at the
25 wellhead or minehead of oil, gas, or other minerals
26 in which the debtor had an interest before
27 extraction.

28 (7) "Authenticate" means:

29 (A) to sign; or

30 (B) to execute or otherwise adopt a symbol, or
31 encrypt or similarly process a record in whole or in
32 part, with the present intent of the authenticating
33 person to identify the person and adopt or accept a
34 record.

1 (8) "Bank" means an organization that is engaged in
2 the business of banking. The term includes savings
3 banks, savings and loan associations, credit unions, and
4 trust companies.

5 (9) "Cash proceeds" means proceeds that are money,
6 checks, deposit accounts, or the like.

7 (10) "Certificate of title" means a certificate of
8 title with respect to which a statute provides for the
9 security interest in question to be indicated on the
10 certificate as a condition or result of the security
11 interest's obtaining priority over the rights of a lien
12 creditor with respect to the collateral.

13 (11) "Chattel paper" means a record or records that
14 evidence both a monetary obligation and a security
15 interest in specific goods, a security interest in
16 specific goods and software used in the goods, a security
17 interest in specific goods and license of software used
18 in the goods, a lease of specific goods, or a lease of
19 specified goods and a license of software used in the
20 goods. In this paragraph, "monetary obligation" means a
21 monetary obligation secured by the goods or owed under a
22 lease of the goods and includes a monetary obligation
23 with respect to software used in the goods. The term
24 does not include (i) charters or other contracts
25 involving the use or hire of a vessel or (ii) records
26 that evidence a right to payment arising out of the use
27 of a credit or charge card or information contained on or
28 for use with the card. If a transaction is evidenced by
29 records that include an instrument or series of
30 instruments, the group of records taken together
31 constitutes chattel paper.

32 (12) "Collateral" means the property subject to a
33 security interest or agricultural lien. The term
34 includes:

1 (A) proceeds to which a security interest
2 attaches;

3 (B) accounts, chattel paper, payment
4 intangibles, and promissory notes that have been
5 sold; and

6 (C) goods that are the subject of a
7 consignment.

8 (13) "Commercial tort claim" means a claim arising
9 in tort with respect to which:

10 (A) the claimant is an organization; or

11 (B) the claimant is an individual and the
12 claim:

13 (i) arose in the course of the claimant's
14 business or profession; and

15 (ii) does not include damages arising out
16 of personal injury to or the death of an
17 individual.

18 (14) "Commodity account" means an account
19 maintained by a commodity intermediary in which a
20 commodity contract is carried for a commodity customer.

21 (15) "Commodity contract" means a commodity futures
22 contract, an option on a commodity futures contract, a
23 commodity option, or another contract if the contract or
24 option is:

25 (A) traded on or subject to the rules of a
26 board of trade that has been designated as a
27 contract market for such a contract pursuant to
28 federal commodities laws; or

29 (B) traded on a foreign commodity board of
30 trade, exchange, or market, and is carried on the
31 books of a commodity intermediary for a commodity
32 customer.

33 (16) "Commodity customer" means a person for which
34 a commodity intermediary carries a commodity contract on

1 its books.

2 (17) "Commodity intermediary" means a person that:

3 (A) is registered as a futures commission
4 merchant under federal commodities law; or

5 (B) in the ordinary course of its business
6 provides clearance or settlement services for a
7 board of trade that has been designated as a
8 contract market pursuant to federal commodities law.

9 (18) "Communicate" means:

10 (A) to send a written or other tangible
11 record;

12 (B) to transmit a record by any means agreed
13 upon by the persons sending and receiving the
14 record; or

15 (C) in the case of transmission of a record to
16 or by a filing office, to transmit a record by any
17 means prescribed by filing-office rule.

18 (19) "Consignee" means a merchant to which goods
19 are delivered in a consignment.

20 (20) "Consignment" means a transaction, regardless
21 of its form, in which a person delivers goods to a
22 merchant for the purpose of sale and:

23 (A) the merchant:

24 (i) deals in goods of that kind under a
25 name other than the name of the person making
26 delivery;

27 (ii) is not an auctioneer; and

28 (iii) is not generally known by its
29 creditors to be substantially engaged in
30 selling the goods of others;

31 (B) with respect to each delivery, the
32 aggregate value of the goods is \$1,000 or more at
33 the time of delivery;

34 (C) the goods are not consumer goods

1 immediately before delivery; and

2 (D) the transaction does not create a security
3 interest that secures an obligation.

4 (21) "Consignor" means a person that delivers goods
5 to a consignee in a consignment.

6 (22) "Consumer debtor" means a debtor in a consumer
7 transaction.

8 (23) "Consumer goods" means goods that are used or
9 bought for use primarily for personal, family, or
10 household purposes.

11 (24) "Consumer-goods transaction" means a consumer
12 transaction in which:

13 (A) an individual incurs an obligation
14 primarily for personal, family, or household
15 purposes; and

16 (B) a security interest in consumer goods
17 secures the obligation.

18 (25) "Consumer obligor" means an obligor who is an
19 individual and who incurred the obligation as part of a
20 transaction entered into primarily for personal, family,
21 or household purposes.

22 (26) "Consumer transaction" means a transaction in
23 which (i) an individual incurs an obligation primarily
24 for personal, family, or household purposes, (ii) a
25 security interest secures the obligation, and (iii) the
26 collateral is held or acquired primarily for personal,
27 family, or household purposes. The term includes
28 consumer-goods transactions.

29 (27) "Continuation statement" means an amendment of
30 a financing statement which:

31 (A) identifies, by its file number, the
32 initial financing statement to which it relates; and

33 (B) indicates that it is a continuation
34 statement for, or that it is filed to continue the

1 effectiveness of, the identified financing
2 statement.

3 (28) "Debtor" means:

4 (A) a person having an interest, other than a
5 security interest or other lien, in the collateral,
6 whether or not the person is an obligor;

7 (B) a seller of accounts, chattel paper,
8 payment intangibles, or promissory notes; or

9 (C) a consignee.

10 (29) "Deposit account" means a demand, time,
11 savings, passbook, nonnegotiable certificates of deposit,
12 uncertificated certificates of deposit, nontransferrable
13 certificates of deposit, or similar account maintained
14 with a bank. The term does not include investment
15 property or accounts evidenced by an instrument.

16 (30) "Document" means a document of title or a
17 receipt of the type described in Section 7-201(2).

18 (31) "Electronic chattel paper" means chattel paper
19 evidenced by a record or records consisting of
20 information stored in an electronic medium.

21 (32) "Encumbrance" means a right, other than an
22 ownership interest, in real property. The term includes
23 mortgages and other liens on real property.

24 (33) "Equipment" means goods other than inventory,
25 farm products, or consumer goods.

26 (34) "Farm products" means goods, other than
27 standing timber, with respect to which the debtor is
28 engaged in a farming operation and which are:

29 (A) crops grown, growing, or to be grown,
30 including:

31 (i) crops produced on trees, vines, and
32 bushes; and

33 (ii) aquatic goods produced in
34 aquacultural operations;

1 (B) livestock, born or unborn, including
2 aquatic goods produced in aquacultural operations;

3 (C) supplies used or produced in a farming
4 operation; or

5 (D) products of crops or livestock in their
6 unmanufactured states.

7 (35) "Farming operation" means raising,
8 cultivating, propagating, fattening, grazing, or any
9 other farming, livestock, or aquacultural operation.

10 (36) "File number" means the number assigned to an
11 initial financing statement pursuant to Section 9-519(a).

12 (37) "Filing office" means an office designated in
13 Section 9-501 as the place to file a financing statement.

14 (38) "Filing-office rule" means a rule adopted
15 pursuant to Section 9-526.

16 (39) "Financing statement" means a record or
17 records composed of an initial financing statement and
18 any filed record relating to the initial financing
19 statement.

20 (40) "Fixture filing" means the filing of a
21 financing statement covering goods that are or are to
22 become fixtures and satisfying Section 9-502(a) and (b).
23 The term includes the filing of a financing statement
24 covering goods of a transmitting utility which are or are
25 to become fixtures.

26 (41) "Fixtures" means goods that have become so
27 related to particular real property that an interest in
28 them arises under real property law.

29 (42) "General intangible" means any personal
30 property, including things in action, other than
31 accounts, chattel paper, commercial tort claims, deposit
32 accounts, documents, goods, instruments, investment
33 property, letter-of-credit rights, letters of credit,
34 money, and oil, gas, or other minerals before extraction.

1 The term includes payment intangibles and software.

2 (43) "Good faith" means honesty in fact and the
3 observance of reasonable commercial standards of fair
4 dealing.

5 (44) "Goods" means all things that are movable when
6 a security interest attaches. The term includes (i)
7 fixtures, (ii) standing timber that is to be cut and
8 removed under a conveyance or contract for sale, (iii)
9 the unborn young of animals, (iv) crops grown, growing,
10 or to be grown, even if the crops are produced on trees,
11 vines, or bushes, and (v) manufactured homes. The term
12 also includes a computer program embedded in goods and
13 any supporting information provided in connection with a
14 transaction relating to the program if (i) the program is
15 associated with the goods in such a manner that it
16 customarily is considered part of the goods, or (ii) by
17 becoming the owner of the goods, a person acquires a
18 right to use the program in connection with the goods.
19 The term does not include a computer program embedded in
20 goods that consist solely of the medium in which the
21 program is embedded. The term also does not include
22 accounts, chattel paper, commercial tort claims, deposit
23 accounts, documents, general intangibles, instruments,
24 investment property, letter-of-credit rights, letters of
25 credit, money, or oil, gas, or other minerals before
26 extraction.

27 (45) "Governmental unit" means a subdivision,
28 agency, department, county, parish, municipality, or
29 other unit of the government of the United States, a
30 State, or a foreign country. The term includes an
31 organization having a separate corporate existence if the
32 organization is eligible to issue debt on which interest
33 is exempt from income taxation under the laws of the
34 United States.

1 (46) "Health-care-insurance receivable" means an
2 interest in or claim under a policy of insurance which is
3 a right to payment of a monetary obligation for
4 health-care goods or services provided.

5 (47) "Instrument" means a negotiable instrument or
6 any other writing that evidences a right to the payment
7 of a monetary obligation, is not itself a security
8 agreement or lease, and is of a type that in ordinary
9 course of business is transferred by delivery with any
10 necessary indorsement or assignment. The term does not
11 include (i) investment property, (ii) letters of credit,
12 (iii) nonnegotiable certificates of deposit, (iv)
13 uncertificated certificates of deposit, (v)
14 nontransferrable certificates of deposit, or (vi)
15 writings that evidence a right to payment arising out of
16 the use of a credit or charge card or information
17 contained on or for use with the card.

18 (48) "Inventory" means goods, other than farm
19 products, which:

- 20 (A) are leased by a person as lessor;
- 21 (B) are held by a person for sale or lease or
22 to be furnished under a contract of service;
- 23 (C) are furnished by a person under a contract
24 of service; or
- 25 (D) consist of raw materials, work in process,
26 or materials used or consumed in a business.

27 (49) "Investment property" means a security,
28 whether certificated or uncertificated, security
29 entitlement, securities account, commodity contract, or
30 commodity account.

31 (50) "Jurisdiction of organization", with respect
32 to a registered organization, means the jurisdiction
33 under whose law the organization is organized.

34 (51) "Letter-of-credit right" means a right to

1 payment or performance under a letter of credit, whether
2 or not the beneficiary has demanded or is at the time
3 entitled to demand payment or performance. The term does
4 not include the right of a beneficiary to demand payment
5 or performance under a letter of credit.

6 (52) "Lien creditor" means:

7 (A) a creditor that has acquired a lien on the
8 property involved by attachment, levy, or the like;

9 (B) an assignee for benefit of creditors from
10 the time of assignment;

11 (C) a trustee in bankruptcy from the date of
12 the filing of the petition; or

13 (D) a receiver in equity from the time of
14 appointment.

15 (53) "Manufactured home" means a structure,
16 transportable in one or more sections, which, in the
17 traveling mode, is eight body feet or more in width or 40
18 body feet or more in length, or, when erected on site, is
19 320 or more square feet, and which is built on a
20 permanent chassis and designed to be used as a dwelling
21 with or without a permanent foundation when connected to
22 the required utilities, and includes the plumbing,
23 heating, air-conditioning, and electrical systems
24 contained therein. The term includes any structure that
25 meets all of the requirements of this paragraph except
26 the size requirements and with respect to which the
27 manufacturer voluntarily files a certification required
28 by the United States Secretary of Housing and Urban
29 Development and complies with the standards established
30 under Title 42 of the United States Code.

31 (54) "Manufactured-home transaction" means a
32 secured transaction:

33 (A) that creates a purchase-money security
34 interest in a manufactured home, other than a

1 manufactured home held as inventory; or

2 (B) in which a manufactured home, other than a
3 manufactured home held as inventory, is the primary
4 collateral.

5 (55) "Mortgage" means a consensual interest in real
6 property, including fixtures, which secures payment or
7 performance of an obligation.

8 (56) "New debtor" means a person that becomes bound
9 as debtor under Section 9-203(d) by a security agreement
10 previously entered into by another person.

11 (57) "New value" means (i) money, (ii) money's
12 worth in property, services, or new credit, or (iii)
13 release by a transferee of an interest in property
14 previously transferred to the transferee. The term does
15 not include an obligation substituted for another
16 obligation.

17 (58) "Noncash proceeds" means proceeds other than
18 cash proceeds.

19 (59) "Obligor" means a person that, with respect to
20 an obligation secured by a security interest in or an
21 agricultural lien on the collateral, (i) owes payment or
22 other performance of the obligation, (ii) has provided
23 property other than the collateral to secure payment or
24 other performance of the obligation, or (iii) is
25 otherwise accountable in whole or in part for payment or
26 other performance of the obligation. The term does not
27 include issuers or nominated persons under a letter of
28 credit.

29 (60) "Original debtor", except as used in Section
30 9-310(c), means a person that, as debtor, entered into a
31 security agreement to which a new debtor has become bound
32 under Section 9-203(d).

33 (61) "Payment intangible" means a general
34 intangible under which the account debtor's principal

1 obligation is a monetary obligation.

2 (62) "Person related to", with respect to an
3 individual, means:

4 (A) the spouse of the individual;

5 (B) a brother, brother-in-law, sister, or
6 sister-in-law of the individual;

7 (C) an ancestor or lineal descendant of the
8 individual or the individual's spouse; or

9 (D) any other relative, by blood or marriage,
10 of the individual or the individual's spouse who
11 shares the same home with the individual.

12 (63) "Person related to", with respect to an
13 organization, means:

14 (A) a person directly or indirectly
15 controlling, controlled by, or under common control
16 with the organization;

17 (B) an officer or director of, or a person
18 performing similar functions with respect to, the
19 organization;

20 (C) an officer or director of, or a person
21 performing similar functions with respect to, a
22 person described in subparagraph (A);

23 (D) the spouse of an individual described in
24 subparagraph (A), (B), or (C); or

25 (E) an individual who is related by blood or
26 marriage to an individual described in subparagraph
27 (A), (B), (C), or (D) and shares the same home with
28 the individual.

29 (64) "Proceeds", except as used in Section
30 9-609(b), means the following property:

31 (A) whatever is acquired upon the sale, lease,
32 license, exchange, or other disposition of
33 collateral;

34 (B) whatever is collected on, or distributed

1 on account of, collateral;

2 (C) rights arising out of collateral;

3 (D) to the extent of the value of collateral,
4 claims arising out of the loss, nonconformity, or
5 interference with the use of, defects or
6 infringement of rights in, or damage to, the
7 collateral; or

8 (E) to the extent of the value of collateral
9 and to the extent payable to the debtor or the
10 secured party, insurance payable by reason of the
11 loss or nonconformity of, defects or infringement of
12 rights in, or damage to, the collateral.

13 (64.1) "Production-money crops" means crops that
14 secure a production-money obligation incurred with
15 respect to the production of those crops.

16 (64.2) "Production-money obligation" means an
17 obligation of an obligor incurred for new value given to
18 enable the debtor to produce crops if the value is in
19 fact used for the production of crops.

20 (64.3) "Production of crops" includes tilling and
21 otherwise preparing land for growing, planting,
22 cultivating, fertilizing, irrigating, harvesting, and
23 gathering crops, and protecting them from damage or
24 disease.

25 (65) "Promissory note" means an instrument that
26 evidences a promise to pay a monetary obligation, does
27 not evidence an order to pay, and does not contain an
28 acknowledgment by a bank that the bank has received for
29 deposit a sum of money or funds.

30 (66) "Proposal" means a record authenticated by a
31 secured party which includes the terms on which the
32 secured party is willing to accept collateral in full or
33 partial satisfaction of the obligation it secures
34 pursuant to Sections 9-620, 9-621, and 9-622.

1 (67) "Public-finance transaction" means a secured
2 transaction in connection with which:

3 (A) debt securities are issued;

4 (B) all or a portion of the securities issued
5 have an initial stated maturity of at least 20
6 years; and

7 (C) the debtor, obligor, secured party,
8 account debtor or other person obligated on
9 collateral, assignor or assignee of a secured
10 obligation, or assignor or assignee of a security
11 interest is a State or a governmental unit of a
12 State.

13 (68) "Pursuant to commitment", with respect to an
14 advance made or other value given by a secured party,
15 means pursuant to the secured party's obligation, whether
16 or not a subsequent event of default or other event not
17 within the secured party's control has relieved or may
18 relieve the secured party from its obligation.

19 (69) "Record", except as used in "for record", "of
20 record", "record or legal title", and "record owner",
21 means information that is inscribed on a tangible medium
22 or which is stored in an electronic or other medium and
23 is retrievable in perceivable form.

24 (70) "Registered organization" means an
25 organization organized solely under the law of a single
26 State or the United States and as to which the State or
27 the United States must maintain a public record showing
28 the organization to have been organized.

29 (71) "Secondary obligor" means an obligor to the
30 extent that:

31 (A) the obligor's obligation is secondary; or

32 (B) the obligor has a right of recourse with
33 respect to an obligation secured by collateral
34 against the debtor, another obligor, or property of

1 either.

2 (72) "Secured party" means:

3 (A) a person in whose favor a security
4 interest is created or provided for under a security
5 agreement, whether or not any obligation to be
6 secured is outstanding;

7 (B) a person that holds an agricultural lien;

8 (C) a consignor;

9 (D) a person to which accounts, chattel paper,
10 payment intangibles, or promissory notes have been
11 sold;

12 (E) a trustee, indenture trustee, agent,
13 collateral agent, or other representative in whose
14 favor a security interest or agricultural lien is
15 created or provided for; or

16 (F) a person that holds a security interest
17 arising under Section 2-401, 2-505, 2-711(3),
18 2A-508(5), 4-210, or 5-118.

19 (73) "Security agreement" means an agreement that
20 creates or provides for a security interest.

21 (74) "Send", in connection with a record or
22 notification, means:

23 (A) to deposit in the mail, deliver for
24 transmission, or transmit by any other usual means
25 of communication, with postage or cost of
26 transmission provided for, addressed to any address
27 reasonable under the circumstances; or

28 (B) to cause the record or notification to be
29 received within the time that it would have been
30 received if properly sent under subparagraph (A).

31 (75) "Software" means a computer program and any
32 supporting information provided in connection with a
33 transaction relating to the program. The term does not
34 include a computer program that is included in the

1 definition of goods.

2 (76) "State" means a State of the United States,
3 the District of Columbia, Puerto Rico, the United States
4 Virgin Islands, or any territory or insular possession
5 subject to the jurisdiction of the United States.

6 (77) "Supporting obligation" means a
7 letter-of-credit right or secondary obligation that
8 supports the payment or performance of an account,
9 chattel paper, a document, a general intangible, an
10 instrument, or investment property.

11 (78) "Tangible chattel paper" means chattel paper
12 evidenced by a record or records consisting of
13 information that is inscribed on a tangible medium.

14 (79) "Termination statement" means an amendment of
15 a financing statement which:

16 (A) identifies, by its file number, the
17 initial financing statement to which it relates; and

18 (B) indicates either that it is a termination
19 statement or that the identified financing statement
20 is no longer effective.

21 (80) "Transmitting utility" means a person
22 primarily engaged in the business of:

23 (A) operating a railroad, subway, street
24 railway, or trolley bus;

25 (B) transmitting communications electrically,
26 electromagnetically, or by light;

27 (C) transmitting goods by pipeline or sewer;
28 or

29 (D) transmitting or producing and transmitting
30 electricity, steam, gas, or water.

31 (b) Definitions in other Articles. The following
32 definitions in other Articles apply to this Article:

33 "Applicant". Section 5-102.

34 "Beneficiary". Section 5-102.

- 1 "Broker". Section 8-102.
- 2 "Certificated security". Section 8-102.
- 3 "Check". Section 3-104.
- 4 "Clearing corporation". Section 8-102.
- 5 "Contract for sale". Section 2-106.
- 6 "Customer". Section 4-104.
- 7 "Entitlement holder". Section 8-102.
- 8 "Financial asset". Section 8-102.
- 9 "Holder in due course". Section 3-302.
- 10 "Issuer" (with respect to a letter of credit or
- 11 letter-of-credit right). Section 5-102.
- 12 "Issuer" (with respect to a security). Section 8-201.
- 13 "Lease". Section 2A-103.
- 14 "Lease agreement". Section 2A-103.
- 15 "Lease contract". Section 2A-103.
- 16 "Leasehold interest". Section 2A-103.
- 17 "Lessee". Section 2A-103.
- 18 "Lessee in ordinary course of business". Section 2A-103.
- 19 "Lessor". Section 2A-103.
- 20 "Lessor's residual interest". Section 2A-103.
- 21 "Letter of credit". Section 5-102.
- 22 "Merchant". Section 2-104.
- 23 "Negotiable instrument". Section 3-104.
- 24 "Nominated person". Section 5-102.
- 25 "Note". Section 3-104.
- 26 "Proceeds of a letter of credit". Section 5-114.
- 27 "Prove". Section 3-103.
- 28 "Sale". Section 2-106.
- 29 "Securities account". Section 8-501.
- 30 "Securities intermediary". Section 8-102.
- 31 "Security". Section 8-102.
- 32 "Security certificate". Section 8-102.
- 33 "Security entitlement". Section 8-102.
- 34 "Uncertificated security". Section 8-102.

1 (c) Article 1 definitions and principles. Article 1
2 contains general definitions and principles of construction
3 and interpretation applicable throughout this Article.

4 (Source: P.A. 91-893, eff. 7-1-01; 92-819, eff. 8-21-02.)

5 (810 ILCS 5/9-103A new)

6 Sec. 9-103A. "Production-money crops"; "production-money
7 obligation"; production-money security interest; burden of
8 establishing.

9 (a) A security interest in crops is a production-money
10 security interest to the extent that the crops are
11 production-money crops.

12 (b) If the extent to which a security interest is a
13 production-money security interest depends on the application
14 of a payment to a particular obligation, the payment must be
15 applied:

16 (1) in accordance with any reasonable method of
17 application to which the parties agree;

18 (2) in the absence of the parties' agreement to a
19 reasonable method, in accordance with any intention of
20 the obligor manifested at or before the time of payment;
21 or

22 (3) in the absence of an agreement to a reasonable
23 method and a timely manifestation of the obligor's
24 intention, in the following order:

25 (A) to obligations that are not secured; and

26 (B) if more than one obligation is secured, to
27 obligations secured by production-money security
28 interests in the order in which those obligations
29 were incurred.

30 (c) A production-money security interest does not lose
31 its status as such, even if:

32 (1) the production-money crops also secure an
33 obligation that is not a production-money obligation;

1 (2) collateral that is not production-money crops
2 also secures the production-money obligation; or

3 (3) the production-money obligation has been
4 renewed, refinanced, or restructured.

5 (d) A secured party claiming a production-money security
6 interest has the burden of establishing the extent to which
7 the security interest is a production-money security
8 interest.

9 (810 ILCS 5/9-324A new)

10 Sec. 9-324A. Priority of production-money security
11 interests and agricultural liens.

12 (a) Except as otherwise provided in subsections (c),
13 (d), and (e), if the requirements of subsection (b) are
14 satisfied, a perfected production-money security interest in
15 production-money crops has priority over a conflicting
16 security interest in the same crops and, except as otherwise
17 provided in Section 9-327, also has priority in their
18 identifiable proceeds.

19 (b) A production-money security interest has priority
20 under subsection (a) if:

21 (1) the production-money security interest is
22 perfected by filing when the production-money secured
23 party first gives a new value to enable the debtor to
24 produce the crops;

25 (2) the production-money secured party sends an
26 authenticated notification to the holder of the
27 conflicting security interest not less than 10 or more
28 than 30 days before the production-money secured party
29 first gives new value to enable the debtor to produce the
30 crops if the holder had filed a financing statement
31 covering the crops before the date of the filing made by
32 the production-money secured party; and

33 (3) the notification states that the

1 production-money secured party has or expects to acquire
2 a production-money security interest in the debtor's
3 crops and provides a description of the crops.

4 (c) Excepts as otherwise provided in subsection (d) or
5 (e), if more than one security interest qualifies for
6 priority in the same collateral under subsection (a), the
7 security interests rank according to priority in time of
8 filing under Section 9-322(a).

9 (d) To the extent that a person holding a perfected
10 security interest in production-money crops that are the
11 subject of a production-money security interest gives new
12 value to enable the debtor to produce the production-money
13 crops and the value is in fact used for the production of the
14 production-money crops, the security interests rank according
15 to priority in time of filing under Section 9-322(a).

16 (e) To the extent that a person holds both an
17 agricultural lien and a production-money security interest in
18 the same collateral securing the same obligations, the rules
19 of priority applicable to agricultural liens govern priority.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.