

CHAPTER 281  
HB 1503-FN - FINAL VERSION

15Mar2022... 0828h  
04/28/2022 1661s  
05/05/2022 1939s  
05/05/2022 1974s  
26May2022... 2077CofC  
26May2022... 2125EBA

2022 SESSION

22-2784  
08/04

HOUSE BILL                    ***1503-FN***

AN ACT                    adopting the Uniform Commercial Code relative to controllable electronic records, relative to exempting the developer, seller, or facilitator of the exchange of an open blockchain token from certain securities laws and establishing state procurement policies intended to promote the use of American materials.

SPONSORS:                Rep. Ammon, Hills. 40; Rep. Alexander Jr., Hills. 6; Rep. Osborne, Rock. 4; Rep. Warden, Hills. 15; Rep. Edwards, Rock. 4; Rep. Berezhny, Graf. 9; Rep. Baxter, Rock. 20; Rep. White, Merr. 20; Sen. Avard, Dist 12

COMMITTEE:                Commerce and Consumer Affairs

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AMENDED ANALYSIS

This bill exempts the developer, seller, or facilitator of the exchange of an open blockchain token from certain securities laws. This bill also adopts the Uniform Commercial Code on controllable electronic records. This bill also establishes the requirements and fraud processes, for the use of American made steel products in state public works projects.

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Explanation:                Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT                    adopting the Uniform Commercial Code relative to controllable electronic records, relative to exempting the developer, seller, or facilitator of the exchange of an open blockchain token from certain securities laws and establishing state procurement policies intended to promote the use of American materials.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            281:1 Statement of Intent.

2            I. The Joint Committee on the Uniform Commercial Code and Emerging Technologies of the  
3 Uniform Law Commission has developed draft Uniform Commercial Code provisions governing certain  
4 digital assets, specifically those that fall within the definition of "controllable electronic records." The  
5 current draft has been extensively vetted by those who understand and participate in digital transactions.

6            II. Adoption of the Uniform Law Commission's draft by the New Hampshire general court will  
7 create a considerable advantage for New Hampshire to lead in emerging industries utilizing blockchain,  
8 digital ledger technology, virtual currencies, and other digital assets and would provide a sensible  
9 framework and legal certainty for transactions of controllable electronic records. In subsequent sessions,  
10 if necessary, the New Hampshire general court will review and adopt conforming amendments to the  
11 provisions of the Uniform Commercial Code on controllable electronic records to remain consistent with  
12 the language and intent of the final proposal of the Joint Committee on the Uniform Commercial Code and  
13 Emerging Technologies of the Uniform Law Commission.

14            281:2 Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b)(10) to read as follows:

15                    (10) "Conspicuous," with reference to a term, means so written, displayed, or presented  
16 that a reasonable person against which it is to operate ought to have noticed it. Whether a term is  
17 "conspicuous" or not is a decision for the court. [~~Conspicuous terms include the following:~~

18                            ~~(A) a heading in capitals equal to or greater in size than the surrounding text, or in~~  
19 ~~contrasting type, font, or color to the surrounding text of the same or lesser size; and~~

20                            ~~(B) language in the body of a record or display in larger type than the surrounding~~  
21 ~~text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from~~  
22 ~~surrounding text of the same size by symbols or other marks that call attention to the language.]~~

23            281:3 New Paragraph; Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b) by  
24 inserting after paragraph (16) the following new paragraph:

25                    (16A) "Electronic" means relating to technology having electrical, digital, magnetic,  
26 wireless, optical, electromagnetic, or similar capabilities.

27            281:4 Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b)(21) to read as follows:

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1 (21) "Holder" means:

2 (A) the person in possession of a negotiable instrument that is payable either to  
3 bearer or to an identified person that is the person in possession; or

4 (B) the person in possession of a negotiable tangible document of title if the goods  
5 are deliverable either to bearer or to the order of the person in possession; or

6 (C) the person in control, *other than pursuant to Section 7-106(d)*, of a negotiable  
7 electronic document of title.

8 281:5 Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b)(24) to read as follows:

9 (24) "Money" means a medium of exchange *that is* currently authorized or adopted by a  
10 domestic or foreign government. [~~The term includes a monetary unit of account established by an~~  
11 ~~intergovernmental organization or by agreement between two or more countries.~~] *The term does not*  
12 *include an electronic record that is a medium of exchange recorded and transferable in a system that*  
13 *existed and operated for the medium of exchange before the medium of exchange was authorized or*  
14 *adopted by a government, or organization or pursuant to such an agreement.*

15 281:6 Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b)(27) to read as follows:

16 (27) "Person" means an individual, corporation, business trust, estate, trust, partnership,  
17 limited liability company, association, joint venture, government, governmental subdivision, agency, or  
18 instrumentality, public corporation, or any other legal or commercial entity. *The term includes a protected*  
19 *series, however denominated, of an entity if the protected series is established under law other than this*  
20 *chapter that limits, or limits if conditions specified under the law are satisfied, the ability of a creditor of the*  
21 *entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.*

22 281:7 Uniform Commercial Code; Definitions. Amend RSA 382-A:1-201(b)(37) to read as follows:

23 (37) "Signed" includes using any symbol executed or adopted with present intention to  
24 adopt or accept a writing *and, with respect to a record that is not a writing, includes the attachment to or*  
25 *logical association with the record of an electronic symbol, sound, or process with the present intent to*  
26 *adopt or accept the record. "Sign" and "Signature" have corresponding meanings.*

27 281:8 Uniform Commercial Code; Definitions. Amend the introductory paragraph of RSA 382-A:1-  
28 204 to read as follows:

29 Except as otherwise provided in Articles 3, 4, [~~and~~] 5, **6, and 12**, a person gives value for rights if the  
30 person acquires them:

31 281:9 Uniform Commercial Code; Sales; Scope. RSA 382-A:2-102 is repealed and reenacted to  
32 read as follows:

33 (1) Unless the context otherwise requires and except as provided in subsections (3) and  
34 (4), this Article applies to transactions in goods.

35 (2) If the goods aspects of a hybrid transaction predominate, this Article applies to the  
36 transaction.

37 (3) If the goods aspects of a hybrid transaction do not predominate, the provisions of this  
38 Article which relate primarily to the goods aspects of the transaction and not to the transaction as a whole  
39 apply.

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1           (4) This article does not apply to any transaction which although in the form of an  
2 unconditional contract to sell or present sale is intended to operate only as a security transaction nor does  
3 this Article impair or repeal any statute regulating sales to consumers, farmers, or other specified classes  
4 of buyers.

5           (5) This Section does not preclude in appropriate circumstances the application of other  
6 law to the aspects of a hybrid transaction which do not relate to the goods even if the goods aspects of the  
7 transaction predominate.

8           281:10 Uniform Commercial Code; Sales; Definitions. RSA 382-A:2-106 is repealed and reenacted  
9 to read as follows:

10          382-A:2-106 Definitions: "Contract"; "Agreement"; "Contract for Sale"; "Sale"; "Present Sale";  
11 "Conforming" to Contract; "Termination"; "Cancellation".

12           (1) In this Article unless the context otherwise requires "contract" and "agreement" are  
13 limited to those relating to the present or future sale of goods. "Contract for sale" includes both a present  
14 sale of goods and a contract to sell goods at a future time. A "sale" consists in the passing of title from the  
15 seller to the buyer for a price (Section 2-401). A "present sale" means a sale which is accomplished by  
16 the making of the contract.

17           (2) Goods or conduct including any part of a performance are "conforming" or conform to  
18 the contract when they are in accordance with the obligations under the contract.

19           (3) "Termination" occurs when either party pursuant to a power created by agreement or  
20 law puts an end to the contract otherwise than for its breach. On "termination" all obligations which are  
21 still executory on both sides are discharged but any right based on prior breach or performance survives.

22           (4) "Cancellation" occurs when either party puts an end to the contract for breach by the  
23 other and its effect is the same as that of "termination" except that the cancelling party also retains any  
24 remedy for breach of the whole contract or any unperformed balance.

25           (5) "Hybrid transaction" means a single transaction involving a sale of goods and a sale,  
26 lease, or license of other property or the provision of services.

27          281:11 Uniform Commercial Code; Sales; Statute of Frauds. RSA 382-A:2-201 is repealed and  
28 reenacted to read as follows:

29          382-A:2-201 Formal Requirements; Statute of Frauds.

30           (1) Except as otherwise provided in this section a contract for the sale of goods for the  
31 price of \$500 or more is not enforceable by way of action or defense unless there is some record sufficient  
32 to indicate that a contract for sale has been made between the parties and signed by the party against  
33 whom enforcement is sought or by his authorized agent or broker. A record is not insufficient because it  
34 omits or incorrectly states a term agreed upon but the contract is not enforceable under this paragraph  
35 beyond the quantity of goods shown in such record.

36           (2) Between merchants if within a reasonable time a record in confirmation of the  
37 contract and sufficient against the sender is received and the party receiving it has reason to know its  
38 contents, it satisfies the requirements of subsection (1) against such party unless a record containing a  
39 notice of objection to its contents is given with 10 days after it is received.

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1       281:12 Uniform Commercial Code; Sales; Final Written Expression. Amend RSA 382-A:2-202 to  
2 read as follows:

3       382-A:2-202 Final Written Expression; Parol or Extrinsic Evidence. Terms with respect to which the  
4 confirmatory memoranda of the parties agree or which are otherwise set forth in a ~~[writing]~~ *record*  
5 intended by the parties as a final expression of their agreement with respect to such terms as are included  
6 therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral  
7 agreement but may be explained or supplemented

8           (a) by course of performance, course of dealing, or usage of trade (Section 1-303); and

9           (b) by evidence of consistent additional terms unless the court finds the ~~[writing]~~ *record* to  
10 have been intended also as a complete and exclusive statement of the terms of the agreement.

11       281:13 Uniform Commercial Code; Sales; Seals Inoperative. Amend RSA 382-A:2-203 to read as  
12 follows:

13       382-A:2-203 Seals Inoperative. The affixing of a seal to a ~~[writing]~~ *record* evidencing a contract for  
14 sale or an offer to buy or sell goods does not constitute the ~~[writing]~~ *record* a sealed instrument and the  
15 law with respect to sealed instruments does not apply to such a contract or offer.

16       281:14 Uniform Commercial Code; Sales; Firm Offers. Amend RSA 382-A:2-205 to read as follows:

17       382-A:2-205 Firm Offers. An offer by a merchant to buy or sell goods in a signed ~~[writing]~~ *writing*  
18 which by its terms gives assurance that it will be held open is not revocable, for lack of consideration,  
19 during the time stated or if no time is stated for a reasonable time, but in no event may such period of  
20 irrevocability exceed three months; but any such term of assurance on a form supplied by the offeree  
21 must be separately signed by the offeror.

22       281:15 Uniform Commercial Code; Sales; Modification, Rescission, and Waiver. Amend RSA 382-  
23 A:2-209(2) to read as follows:

24           (2) A signed agreement which excludes modification or rescission except by a signed  
25 ~~[writing]~~ *record* cannot be otherwise modified or rescinded, but except as between merchants such a  
26 requirement on a form supplied by the merchant must be separately signed by the other party.

27       281:16 Uniform Commercial Code; Leases; Scope. RSA 382-A:2A-102 is repealed and reenacted to  
28 read as follows:

29       382-A:2A-102 Scope.

30           (1) Except as provided in subsection (3), this article applies to any transaction,  
31 regardless of form, that creates a lease.

32           (2) If the lease-of-goods aspects of a hybrid lease predominate, this article applies to the  
33 transaction.

34           (3) If the lease-of-goods aspects of a hybrid lease do not predominate:

35               (A) only the provisions of this article which relate primarily to the lease-of-goods  
36 aspects of the transaction and not to the transaction as a whole apply;

37               (B) RSA 382-A:2A-209 applies if the lease is a finance lease; and

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1 (C) RSA 382-A:2A-407 applies to the promises of a person that is the lessee in a  
2 finance lease to the extent the promises are consideration for the right to possession and use of the  
3 leased goods.

4 (4) This Section does not preclude the application in appropriate circumstances of other  
5 law to the aspects of a hybrid lease which do not relate to the lease of goods even if the lease-of-goods  
6 aspects of the transaction predominate.

7 281:17 New Subparagraph; Definitions; Uniform Commercial Code; Leases; Definitions. Amend  
8 RSA 382-A:2A-103 by inserting after subparagraph (1)(h) the following new subparagraph:

9 (hh) "Hybrid lease" means a single transaction involving a lease of goods and:

10 (i) the provision of services;

11 (ii) a sale of other goods; or

12 (iii) a sale, lease, or license of property other than goods.

13 281:18 Uniform Commercial Code; Leases; Statute of Frauds. Amend RSA 382-A:2A-201 to read as  
14 follows:

15 382-A:2A-201 Statute of Frauds.

16 (1) A lease contract is not enforceable by way of action or defense unless:

17 (a) the total payments to be made under the lease contract, excluding payments for options  
18 to renew or buy, are less than \$1,000; or

19 (b) there is a [writing] *record*, signed by the party against whom enforcement is sought or by  
20 that party's authorized agent, sufficient to indicate that a lease contract has been made between the  
21 parties and to describe the goods leased and the lease term.

22 (2) Any description of leased goods or of the lease term is sufficient and satisfies  
23 subsection (1)(b), whether or not it is specific, if it reasonably identifies what is described.

24 (3) A [writing] *record* is not insufficient because it omits or incorrectly states a term  
25 agreed upon, but the lease contract is not enforceable under subsection (1)(b) beyond the lease term and  
26 the quantity of goods shown in the writing.

27 (4) A lease contract that does not satisfy the requirements of subsection (1), but which is  
28 valid in other respects, is enforceable:

29 (a) if the goods are to be specially manufactured or obtained for the lessee and are not  
30 suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before  
31 notice of repudiation is received and under circumstances that reasonably indicate that the goods are for  
32 the lessee, has made either a substantial beginning of their manufacture or commitments for their  
33 procurement;

34 (b) if the party against whom enforcement is sought admits in that party's pleading, testimony  
35 or otherwise in court that a lease contract was made, but the lease contract is not enforceable under this  
36 provision beyond the quantity of goods admitted; or

37 (c) with respect to goods that have been received and accepted by the lessee.

38 (5) The lease term under a lease contract referred to in subsection (4) is:

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1 (a) if there is a [writing] *record* signed by the party against whom enforcement is sought or by  
2 that party's authorized agent specifying the lease term, the term so specified;

3 (b) if the party against whom enforcement is sought admits in that party's pleading,  
4 testimony, or otherwise in court a lease term, the term so admitted; or

5 (c) a reasonable lease term.

6 281:19 Uniform Commercial Code; Leases; Final Written Expression. Amend RSA 382-A:2A-202 to  
7 read as follows:

8 382-A:2A-202 Final Written Expression; Parol or Extrinsic Evidence. Terms with respect to which the  
9 confirmatory memoranda of the parties agree or which are otherwise set forth in a [writing] *record*  
10 intended by the parties as a final expression of their agreement with respect to such terms as are included  
11 therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral  
12 agreement but may be explained or supplemented:

13 (a) by course of dealing or usage of trade or by course of performance; and

14 (b) by evidence of consistent additional terms unless the court finds the [writing] *record* to  
15 have been intended also as a complete and exclusive statement of the terms of the agreement.

16 281:20 Uniform Commercial Code; Leases; Seals Inoperative. Amend RSA 382-A:2A-203 to read as  
17 follows:

18 382-A:2A-203 Seals Inoperative. The affixing of a seal to a [writing] *record* evidencing a lease  
19 contract or an offer to enter into a lease contract does not render the [writing] *record* a sealed instrument  
20 and the law with respect to sealed instruments does not apply to the lease contract or offer.

21 281:21 Uniform Commercial Code; Leases; Firm Offers. Amend RSA 382-A:2A-205 to read as  
22 follows:

23 382-A:2A-205 Firm Offers. An offer by a merchant to lease goods to or from another person in a  
24 signed [writing] *record* that by its terms gives assurance it will be held open is not revocable, for lack of  
25 consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the  
26 period of irrevocability exceed 3 months. Any such term of assurance on a form supplied by the offeree  
27 must be separately signed by the offeror.

28 281:22 Uniform Commercial Code; Leases; Modification, Rescission, and Waiver. Amend RSA 382-  
29 A:2A-208(2) to read as follows:

30 (2) A signed lease agreement that excludes modification or rescission except by a signed  
31 [writing] *record* may not be otherwise modified or rescinded, but, except as between merchants, such a  
32 requirement on a form supplied by a merchant must be separately signed by the other party.

33 281:23 Uniform Commercial Code; Negotiable Instruments. Amend RSA 382-A:3-104(3) to read as  
34 follows:

35 (3) does not state any other undertaking or instruction by the person promising or  
36 ordering payment to do any act in addition to the payment of money, but the promise or order may contain  
37 (i) an undertaking or power to give, maintain, or protect collateral to secure payment, (ii) an authorization  
38 or power to the holder to confess judgment or realize on or dispose of collateral, [or] (iii) a waiver of the  
39 benefit of any law intended for the advantage or protection of an obligor; *(iv) a term that specifies the law*

1 *that governs the promise or order; or (v) an undertaking to resolve in a specified forum a dispute*  
2 *concerning the promise or order.*

3 281:24 Uniform Commercial Code; Negotiable Instruments; Issue of Instrument. Amend RSA 382-  
4 A:3-105(a) to read as follows:

5 (a) "Issue" means:

6 (1) the first delivery of an instrument by the maker or drawer, whether to a holder or  
7 nonholder, for the purpose of giving rights on the instrument to any person; *or*

8 (2) *if agreed by the payee, first transmission by the drawer to the payee of an image of*  
9 *an item and information derived from the item in a manner that enables the depository bank to collect the*  
10 *item by transferring or presenting under federal law an electronic check.*

11 281:25 Uniform Commercial Code; Negotiable Instruments; Discharge by Cancellation or  
12 Renunciation. Amend RSA 382-A:3-604 to read as follows:

13 382-A:3-604 Discharge by Cancellation or Renunciation.

14 (a) A person entitled to enforce an instrument, with or without consideration, may discharge  
15 the obligation of a party to pay the instrument (i) by an intentional voluntary act, such as surrender of the  
16 instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking  
17 out of the party's signature, or the addition of words to the instrument indicating discharge, or (ii) by  
18 agreeing not to sue or otherwise renouncing rights against the party by a signed [writing] *record*. *The*  
19 *obligation of a party to pay a check is not discharged solely by the destruction of the check in connection*  
20 *with a process in which information is extracted from the check and an image of the check is made, and*  
21 *subsequently, the information and image are transmitted for payment.*

22 (b) Cancellation or striking out of an indorsement pursuant to subsection (a) does not affect  
23 the status and rights of a party derived from the indorsement

24 281:26 Uniform Commercial Code; Funds Transfers; Payment Order. Amend the introductory  
25 paragraph of RSA 382-A:4A-103(a)(1) to read as follows:

26 (1) "Payment order" means an instruction of a sender to a receiving bank, transmitted  
27 orally, [electronically], or in [writing] *a record*, to pay, or to cause another bank to pay, a fixed or  
28 determinable amount of money to a beneficiary if:

29 281:27 Uniform Commercial Code; Funds Transfers; Security Procedure. Amend RSA 382-A:4A-201  
30 to read as follows:

31 382-A:4A-201 Security Procedure. "Security procedure" means a procedure established by  
32 agreement of a customer and a receiving bank for the purpose of (i) verifying that a payment order or  
33 communication amending or cancelling a payment order is that of the customer, or (ii) detecting error in  
34 the transmission or the content of the payment order or communication. A security procedure *may*  
35 *impose an obligation on the receiving bank or the customer and* may require the use of algorithms or other  
36 codes, identifying words, [ø] numbers, *symbols, sounds or biometrics*, encryption, callback procedures,  
37 or similar security devices. Comparison of a signature on a payment order or communication with an  
38 authorized specimen signature of the customer *or requiring that a payment order be sent from a known*  
39 *email address, IP address or phone number* is not by itself a security procedure.

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1       281:28 Uniform Commercial Code; Funds Transfers; Authorized and Verified Payment Orders.  
2 Amend RSA 382-A:4A-202(a)-(c) to read as follows:

3           (a) A payment order received by the receiving bank is the authorized order of the person  
4 identified as sender if that person authorized the order or is otherwise bound by it under the law of  
5 agency.

6           (b) If a bank and its customer have agreed that the authenticity of payment orders issued to  
7 the bank in the name of the customer as sender will be verified pursuant to a security procedure, a  
8 payment order received by the receiving bank is effective as the order of the customer, whether or not  
9 authorized, if (i) the security procedure is a commercially reasonable method of providing security against  
10 unauthorized payment orders, and (ii) the bank proves that it accepted the payment order in good faith  
11 and in compliance with *the bank's obligation under* the security procedure and any [~~written~~] agreement or  
12 instruction of the customer, *evidenced by a record*, restricting acceptance of payment orders issued in the  
13 name of the customer. The bank is not required to follow an instruction that violates [~~a written~~] *an*  
14 agreement *evidenced by a record* with the customer or notice of which is not received at a time and in a  
15 manner affording the bank a reasonable opportunity to act on it before the payment order is accepted.

16           (c) Commercial reasonableness of a security procedure is a question of law to be determined  
17 by considering the wishes of the customer expressed to the bank, the circumstances of the customer  
18 known to the bank, including the size, type, and frequency of payment orders normally issued by the  
19 customer to the bank, alternative security procedures offered to the customer, and security procedures in  
20 general use by customers and receiving banks similarly situated. A security procedure is deemed to be  
21 commercially reasonable if (i) the security procedure was chosen by the customer after the bank offered,  
22 and the customer refused, a security procedure that was commercially reasonable for that customer, and  
23 (ii) the customer expressly agreed in [~~writing~~] *a record* to be bound by any payment order, whether or not  
24 authorized, issued in its name and accepted by the bank in compliance with the *bank's obligations under*  
25 *the* security procedure chosen by the customer.

26       281:29 Uniform Commercial Code; Funds Transfers; Unenforceability of Certain Verified Payment  
27 Orders. Amend RSA 382-A:4A-203(a)(1) to read as follows:

28           (1) By express [~~written~~] agreement *evidenced by a record*, the receiving bank may limit  
29 the extent to which it is entitled to enforce or retain payment of the payment order.

30       281:30 Uniform Commercial Code; Funds Transfers; Misdescription of Beneficiary. Amend RSA  
31 382-A:4A-207(c)(2) to read as follows:

32           (2) If the originator is not a bank and proves that the person identified by number was not  
33 entitled to receive payment from the originator, the originator is not obliged to pay its order unless the  
34 originator's bank proves that the originator, before acceptance of the originator's order, had notice that  
35 payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis  
36 of an identifying or bank account number even if it identifies a person different from the named  
37 beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the  
38 burden of proof if it proves that the originator, before the payment order was accepted, signed a [~~writing~~]  
39 *record* stating the information to which the notice relates.

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1       281:31 Uniform Commercial Code; Funds Transfer; Misdescription of Intermediary Bank or  
2 Beneficiary's Bank. Amend RSA 382-A:4A-208(b)(2) to read as follows:

3               (2) If the sender is not a bank and the receiving bank proves that the sender, before the  
4 payment order was accepted, had notice that the receiving bank might rely on the number as the proper  
5 identification of the intermediary or beneficiary's bank even if it identifies a person different from the bank  
6 identified by name, the rights and obligations of the sender and the receiving bank are governed by  
7 subsection (b)(1), as though the sender were a bank. Proof of notice may be made by any admissible  
8 evidence. The receiving bank satisfies the burden of proof if it proves that the sender, before the payment  
9 order was accepted, signed a ~~[writing]~~ **record** stating the information to which the notice relates.

10       281:32 Uniform Commercial Code; Funds Transfers; Rejection of Payment Order. Amend RSA 382-  
11 A:4A-210(a) to read as follows:

12               (a) A payment order is rejected by the receiving bank by a notice of rejection transmitted to  
13 the sender orally~~[-electronically, or in writing]~~ **or in a record**. A notice of rejection need not use any  
14 particular words and is sufficient if it indicates that the receiving bank is rejecting the order or will not  
15 execute or pay the order. Rejection is effective when the notice is given if transmission is by a means that  
16 is reasonable in the circumstances. If notice of rejection is given by a means that is not reasonable,  
17 rejection is effective when the notice is received. If an agreement of the sender and receiving bank  
18 establishes the means to be used to reject a payment order, (i) any means complying with the agreement  
19 is reasonable and (ii) any means not complying is not reasonable unless no significant delay in receipt of  
20 the notice resulted from the use of the noncomplying means.

21       281:33 Uniform Commercial Code; Funds Transfer; Cancellation and Amendment of Payment Order.  
22 Amend RSA 382-A:4A-211(a) to read as follows:

23               (a) A communication of the sender of a payment order cancelling or amending the order may  
24 be transmitted to the receiving bank orally~~[-electronically, or in writing]~~ **or in a record**. If a security  
25 procedure is in effect between the sender and the receiving bank, the communication is not effective to  
26 cancel or amend the order unless the communication is verified pursuant to the security procedure or the  
27 bank agrees to the cancellation or amendment.

28       281:34 Uniform Commercial Code; Letters of Credit; Choice of Law and Forum. Amend RSA 382-  
29 A:5-116(c)-(e) to read as follows:

30               (c) ***For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of***  
31 ***credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities***  
32 ***and a bank is considered to be located at the place where its relevant branch is considered to be located***  
33 ***under subsection (d).***

34               (d) ***A branch of a bank is considered to be located at the address indicated in the branch's***  
35 ***undertaking. If more than one address is indicated, the branch is considered to be located at the address***  
36 ***from which the undertaking was issued.***

37               (e) Except as otherwise provided in this subsection, the liability of an issuer, nominated  
38 person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and  
39 Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is

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1 expressly made subject. If (i) this article would govern the liability of an issuer, nominated person, or  
2 adviser under subsection (a) or (b), (ii) the relevant undertaking incorporates rules of custom or practice,  
3 and (iii) there is conflict between this article and those rules as applied to that undertaking, those rules  
4 govern except to the extent of any conflict with the nonvariable provisions specified in Section 5-103(c).

5 ~~[(d)]~~ **(f)** If there is conflict between this article and Article 3, 4, 4A, or 9, this article governs.

6 ~~[(e)]~~ **(g)** The forum for settling disputes arising out of an undertaking within this article may be  
7 chosen in the manner and with the binding effect that governing law may be chosen in accordance with  
8 subsection (a).

9 281:35 Uniform Commercial Code; Documents of Title; Control of Electronic Document of Title.  
10 Amend RSA 382-A:7-106(b) to read as follows:

11 (b) A system satisfies subsection (a), and a person~~[-is deemed to have]~~ **has** control of an  
12 electronic document of title, if the document is created, stored, and ~~[assigned]~~ **transferred** in such a  
13 manner that:

14 (1) a single authoritative copy of the document exists which is unique, identifiable, and,  
15 except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

16 (2) the authoritative copy identifies the person asserting control as:

17 (A) the person to which the document was issued; or

18 (B) if the authoritative copy indicates that the document has been transferred, the  
19 person to which the document was most recently transferred;

20 (3) the authoritative copy is communicated to and maintained by the person asserting  
21 control or its designated custodian;

22 (4) copies or amendments that add or change an identified ~~[assignee]~~ **transferee** of the  
23 authoritative copy can be made only with the consent of the person asserting control;

24 (5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a  
25 copy that is not the authoritative copy; and

26 (6) any amendment of the authoritative copy is readily identifiable as authorized or  
27 unauthorized.

28 ***(c) A system satisfies subsection (a) and a person has control of an electronic document of***  
29 ***title if an electronic copy of the document, a record attached to or logically associated with the electronic***  
30 ***copy, or a system in which the electronic copy is recorded:***

31 ***(1) enables the person to readily identify each electronic copy as an authoritative copy or***  
32 ***nonauthoritative copy;***

33 ***(2) enables the person readily to identify itself in any way, including by name, identifying***  
34 ***number, cryptographic key, office, or account number as the person to which each authoritative electronic***  
35 ***copy was issued or transferred; and***

36 ***(3) gives the person exclusive power, subject to subsection (h) to:***

37 ***(A) prevent others from altering the person to which each authoritative electronic***  
38 ***copy has been issued or transferred; and***

39 ***(B) transfer control of each authoritative electronic copy.***

1           (d) *If a person has the powers that are specified in subsection (c)(3), the powers are*  
2 *presumed to be exclusive.*

3           (e) *A person has control of an electronic document of title if another person, other than the*  
4 *transferor of an interest in the document:*

5                 (1) *has control of the document and acknowledges that it has control on behalf of the*  
6 *person; or*

7                 (2) *obtains control of the document after having acknowledged that it will obtain control of*  
8 *the document on behalf of the person.*

9           (f) *A person that has control under this section is not required to acknowledge that it has or*  
10 *will obtain control on behalf of another person.*

11           (g) *If a person acknowledges that it has or will obtain control on behalf of another person,*  
12 *unless the person otherwise agrees or law other than this article otherwise provides, the person does not*  
13 *owe any duty to the other person and is not required to confirm the acknowledgment to another person.*

14           (h) *A power is exclusive under subsection (c)(3), even if:*

15                 (1) *the authoritative electronic copy, a record attached to or logically associated with the*  
16 *electronic copy or a system in which the electronic copy is recorded limits the use of the document or has*  
17 *a protocol that is programmed to cause a change, including a transfer or loss of control; or*

18                 (2) *the person shares the power with another person.*

19           281:36 Uniform Commercial Code; Investment Securities; Definitions. Amend RSA 382-A:8-102(6)(i)  
20 to read as follows:

21                         (i) send a signed [writing] *record*, or

22           281:37 Uniform Commercial Code; Investment Securities; Definitions. Amend RSA 382-A:8-106(d)-  
23 (g) to read as follows:

24           (d) A purchaser has "control" of a security entitlement if:

25                 (1) the purchaser becomes the entitlement holder;

26                 (2) the securities intermediary has agreed that it will comply with entitlement orders  
27 originated by the purchaser without further consent by the entitlement holder; or

28                 (3) another person [~~has control of the security entitlement on behalf of the purchaser or,~~  
29 ~~having previously acquired control of the security entitlement, acknowledges that it has control on behalf~~  
30 ~~of the purchaser]~~ *other than the transferor of an interest in the security entitlement:*

31                         (A) *has control of the security entitlement and acknowledges that it has control on*  
32 *behalf of the purchaser; or*

33                         (B) *obtains control of the security entitlement after having acknowledged that it will*  
34 *obtain control of the security entitlement on behalf of the purchaser.*

35           (e) If an interest in a security entitlement is granted by the entitlement holder to the  
36 entitlement holder's own securities intermediary, the securities intermediary has control.

37           (f) A purchaser who has satisfied the requirements of subsection (c) or (d) has control even if  
38 the registered owner in the case of subsection (c) or the entitlement holder in the case of subsection (d)  
39 retains the right to make substitutions for the uncertificated security or security entitlement, to originate

1 instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the  
2 uncertificated security or security entitlement.

3 (g) An issuer or a securities intermediary may not enter into an agreement of the kind  
4 described in subsection (c)(2) or (d)(2) without the consent of the registered owner or entitlement holder,  
5 but an issuer or a securities intermediary is not required to enter into such an agreement even though the  
6 registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered  
7 into such an agreement is not required to confirm the existence of the agreement to another party unless  
8 requested to do so by the registered owner or entitlement holder.

9 (h) *A person that has control under this section is not required to acknowledge that it has*  
10 *control on behalf of a purchaser.*

11 (i) *If a person acknowledges that it has or will obtain control on behalf of a purchaser, unless*  
12 *the person otherwise agrees or law other than this article otherwise provides, the person does not owe*  
13 *any duty to the purchaser and is not required to confirm the acknowledgment to another person.*

14 281:38 Uniform Commercial Code; Investment Securities; Protected Purchaser. Amend RSA 382-  
15 A:8-303(b) to read as follows:

16 (b) ~~[In addition to acquiring the rights of a purchaser, a]~~ A protected purchaser also acquires  
17 its interest in the security free of any adverse claim.

18 281:39 Uniform Commercial Code; Investment Securities; Acquisition of Security Entitlement from  
19 Securities Intermediary. Amend RSA 382-A:8-501(d) to read as follows:

20 (d) If a securities intermediary holds a financial asset for another person, and the financial  
21 asset is registered in the name of, payable to the order of, or specially indorsed to the ~~[other]~~ person, and  
22 has not been indorsed to the securities intermediary or in blank, the other person is treated as holding the  
23 financial asset directly rather than as having a security entitlement with respect to the financial asset.

24 281:40 Uniform Commercial Code; Secured Transactions; Definitions. Amend RSA 382-A:9-102(2)  
25 to read as follows:

26 (2) "Account", except as used in "account for", "*account to*," "*account statement*,"  
27 "*customer's account*," "*on account of*," "*statement of account*," and paragraphs (14) and (29) means a  
28 right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has  
29 been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to  
30 be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or  
31 to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter  
32 or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for  
33 use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a  
34 State, governmental unit of a State, or person licensed or authorized to operate the game by a State or  
35 governmental unit of a State. The term includes *controllable accounts and* health-care-insurance  
36 receivables. The term does not include (i) ~~[rights to payment evidenced by chattel paper or an instrument]~~  
37 *chattel paper*, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit  
38 rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights

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1 arising out of the use of a credit or charge card or information contained on or for use with the card, *or (vii)*  
2 *rights to payment evidenced by an instrument.*

3 281:41 New Paragraphs; Definitions; Uniform Commercial Code; Secured Transactions; Assignee.  
4 Amend RSA 382-A:9-102 by inserting after paragraph (6) the following new paragraphs:

5 (6A) "Assignee" means a person:

6 (A) in whose favor a security interest that secures an obligation is created or  
7 provided for under a security agreement, whether or not an obligation to be secured is outstanding; or

8 (B) to which an account, chattel paper, payment intangible, or promissory note has  
9 been sold.

10 (6B) "Assignor" means a person that:

11 (A) under a security agreement creates or provides for a security interest that  
12 secures an obligation; or

13 (B) sells an account, chattel paper, payment intangible, or promissory note.

14 281:42 Uniform Commercial Code; Secured Transactions; Definitions. RSA 382-A:9-102(11) is  
15 repealed and reenacted to read as follows:

16 (11) "Chattel paper" means:

17 (A) a right to payment of a monetary obligation secured by specific goods, if the right  
18 to payment and security agreement are evidenced by a record; or

19 (B) a right to payment of a monetary obligation owed by a lessee under a lease  
20 agreement with respect to specific goods and a monetary obligation owed by the lessee in connection  
21 with the transaction giving rise to the lease, if:

22 (i) the right to payment and lease agreement are evidenced by a record; and

23 (ii) the predominant purpose of the transaction giving rise to the lease was to  
24 give the lessee the right to possession and use of the goods.

25 The term does not include (i) a right to payment arising out of a charter or other contract involving the use  
26 or hire of a vessel or (ii) a right to payment arising out of the use of a credit or charge card or information  
27 contained on or for use with the card.

28 281:43 New Paragraphs; Uniform Commercial Code; Secured Transactions; Definitions. Amend  
29 RSA 382-A:9-102 by inserting after paragraph 27 the following new paragraphs:

30 (27A) "Controllable account" means an account evidenced by a controllable electronic  
31 record that provides that the account debtor undertakes to pay the person that under Section 12-105 has  
32 control of the controllable electronic record.

33 (27B) "Controllable payment intangible" means a payment intangible evidenced by a  
34 controllable electronic record that provides that the account debtor undertakes to pay the person that  
35 under Section 12-105 has control of the controllable electronic record.

36 281:44 New Paragraph; Uniform Commercial Code; Secured Transactions; Definitions. Amend RSA  
37 382-A:9-102 by inserting after paragraph 31 the following new paragraph:

38 (31A) "Electronic money" means money in an electronic form.

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1       281:45 Uniform Commercial Code; Secured Transactions; Definitions. Amend RSA 382-A:9-102(42)  
2 to read as follows:

3               (42) "General intangible" means any personal property, including things in action, other  
4 than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments,  
5 investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before  
6 extraction. The term includes *controllable electronic records*, payment intangibles and software.

7       281:46 Uniform Commercial Code; Secured Transactions; Definitions. Amend RSA 382-A:9-102(47)  
8 to read as follows:

9               (47) "Instrument" means a negotiable instrument (defined in Section 3-104), or any other  
10 writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or  
11 lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary  
12 indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, [or] (iii)  
13 writings that evidence a right to payment arising out of the use of a credit or charge card or information  
14 contained on or for use with the card, *or (iv) writings that evidence chattel paper.*

15       281:47 New Paragraph; Definitions; Money; Secured Transactions; UCC. Amend RSA 382-A:9-102  
16 by inserting after paragraph (54) the following new paragraph:

17               (54A) "Money" has the meaning provided in Section 1-201(24), but the term does not  
18 include (i) a deposit account or (ii) money in an electronic form that cannot be subjected to control under  
19 Section 9-105A.

20       281:48 Definitions; Payment Intangible; Secured Transactions; UCC. Amend RSA 382-A:9-102(61)  
21 to read as follows:

22               (61) "Payment intangible" means a general intangible under which the account debtor's  
23 principal obligation is a monetary obligation. *The term includes a controllable payment intangible.*

24       281:49 New Paragraph; Definitions; Tangible Money; Secured Transactions; UCC. Amend RSA 382-  
25 A:9-102 by inserting after paragraph (79) the following new paragraph:

26               (79A) "Tangible money" means money in a tangible form.

27       281:50 Definitions; Controllable Electronic Record; Qualified Purchaser; Secured Transactions; UCC.  
28 Amend RSA 382-A:9-102(b) to read as follows:

29               (b) "Control" as provided in Section 7-106 and the following definitions in other articles apply  
30 to this article:

31 "Applicant" Section 5-102.

32 "Beneficiary" Section 5-102.

33 "Broker" Section 8-102.

34 "Certificated security" Section 8-102.

35 "Check" Section 3-104.

36 "Clearing corporation" Section 8-102.

37 "Contract for sale" Section 2-106.

38 ***"Controllable electronic record" Section 12-102.***

39 "Customer" Section 4-104.

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- 1 "Entitlement holder" Section 8-102.  
2 "Financial asset" Section 8-102.  
3 "Holder in due course" Section 3-302.  
4 "Issuer" (with respect to a letter of credit or letter-of-credit right) Section 5-102.  
5 "Issuer" (with respect to a security) Section 8-201.  
6 "Issuer" (with respect to documents of title) Section 7-102.  
7 "Lease" Section 2A-103.  
8 "Lease agreement" Section 2A-103.  
9 "Lease contract" Section 2A-103.  
10 "Leasehold interest" Section 2A-103.  
11 "Lessee" Section 2A-103.  
12 "Lessee in ordinary course of business" Section 2A-103.  
13 "Lessor" Section 2A-103.  
14 "Lessor's residual interest" Section 2A-103.  
15 "Letter of credit" Section 5-102.  
16 "Merchant" Section 2-104.  
17 "Negotiable instrument" Section 3-104.  
18 "Nominated person" Section 5-102.  
19 "Note" Section 3-104.  
20 "Proceeds of a letter of credit" Section 5-114.  
21 "Prove" Section 3-103.  
22 ***"Qualifying purchaser" Section 12-102.***  
23 "Sale" Section 2-106.  
24 "Securities account" Section 8-501.  
25 "Securities intermediary" Section 8-102.  
26 "Security" Section 8-102.  
27 "Security certificate" Section 8-102.  
28 "Security entitlement" Section 8-102.  
29 "Uncertificated security" Section 8-102.  
30 281:51 Control of Deposit Account; Secured Transactions; UCC. Amend RSA 382-A:9-104 to read  
31 as follows:  
32 382-A:9-104 Control of Deposit Account.  
33 (a) Requirements for control. A secured party has control of a deposit account if:  
34 (1) the secured party is the bank with which the deposit account is maintained;  
35 (2) the debtor, secured party, and bank have agreed in [~~an authenticated~~] ***a signed***  
36 record that the bank will comply with instructions originated by the secured party directing disposition of  
37 the funds in the deposit account without further consent by the debtor; [~~or~~]  
38 (3) the secured party becomes the bank's customer with respect to the deposit account;  
39 ***or***

1                   (4) *another person, other than the debtor:*

2                   (A) *has control of the deposit account and acknowledges that it has control on behalf*  
3 *of the secured party; or*

4                   (B) *obtains control of the deposit account after having acknowledged that it will*  
5 *obtain control of the deposit account on behalf of the secured party.*

6                   (b) Debtor's right to direct disposition. A secured party that has satisfied subsection (a) has  
7 control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

8                   281:52 Control of Electronic Copy of Record Evidencing Chattel Paper; Secured Transactions; UCC.  
9 RSA 382-A:9-105 is repealed and reenacted to read as follows:

10                   382-A:9-105 Control of Electronic Copy of Record Evidencing Chattel Paper.

11                   (a) General rule: control of electronic copy of record evidencing chattel paper. A purchaser  
12 has control of each authoritative electronic copy of a record evidencing chattel paper if a system  
13 employed for evidencing the assignment of interests in the chattel paper reliably establishes the  
14 purchaser as the person to which the chattel paper was assigned.

15                   (b) Single authoritative copy. A system satisfies subsection (a) if the record or records  
16 evidencing the chattel paper are created, stored, and assigned in such a manner that:

17                   (1) a single authoritative copy of the record or records exists which is unique, identifiable,  
18 and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

19                   (2) the authoritative copy identifies the purchaser as the assignee of the record or  
20 records;

21                   (3) the authoritative copy is communicated to and maintained by the purchaser or its  
22 designated custodian;

23                   (4) copies or amendments that add or change an identified assignee of the authoritative  
24 copy can be made only with the consent of the purchaser;

25                   (5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a  
26 copy that is not the authoritative copy; and

27                   (6) any amendment of the authoritative copy is readily identifiable as authorized or  
28 unauthorized.

29                   (c) One or more authoritative copies. A system satisfies subsection (a) and a purchaser has  
30 control of an electronic copy of a record evidencing chattel paper if:

31                   (1) the electronic copy, a record attached to or logically associated with the electronic  
32 copy, or a system in which the electronic copy is recorded:

33                   (A) enables the person readily to identify each electronic copy as an authoritative  
34 copy or nonauthoritative copy;

35                   (B) enables the purchaser readily to identify itself in any way, including by name,  
36 identifying number, cryptographic key, office, or account number, as the assignee of each authoritative  
37 electronic copy; and

38                   (C) gives the purchaser exclusive power, subject to subsection (d), to:

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1 (i) prevent others from adding or changing an identified assignee of each  
2 authoritative electronic copy; and

3 (ii) transfer control of each authoritative electronic copy; or

4 (2) another person, other than the debtor:

5 (A) has control of each authoritative electronic copy and acknowledges that it has  
6 control on behalf of the purchaser; or

7 (B) obtains control of each authoritative electronic copy after having acknowledged  
8 that it will obtain control of the electronic copy on behalf of the purchaser.

9 (d) Presumption of exclusivity of certain powers. If a person has the powers that are  
10 specified in subsection (c)(1)(C), the powers are presumed to be exclusive.

11 (e) Meaning of exclusive. A power is exclusive under subsection (b)(1)(C), even if:

12 (1) the electronic copy, a record attached to or logically associated with the electronic  
13 copy, or a system in which the electronic copy is recorded limits the use of the electronic record or has a  
14 protocol programmed to cause a change, including a transfer or loss of control; or

15 (2) the purchaser shares the power with another person.

16 281:53 New Section; Control of Electronic Money. Amend RSA 382-A by inserting after section 9-  
17 105 the following new section:

18 382-A: 9-105A Control of Electronic Money.

19 (a) General rule: control of electronic money. A person has control of electronic money if:

20 (1) the electronic money, a record attached to or logically associated with the electronic  
21 money, or a system in which the electronic money is recorded gives the person:

22 (A) the power to avail itself of substantially all the benefit from the electronic money;

23 and

24 (B) exclusive power, subject to subsection (b), to:

25 (i) prevent others from availing themselves of substantially all the benefit from  
26 the electronic money; and

27 (ii) transfer control of the electronic money to another person or cause another  
28 person to obtain control of other electronic money as a result of the transfer of the electronic money; and

29 (2) the electronic money, a record attached to or logically associated with the electronic  
30 money, or a system in which the electronic money is recorded enables the person readily to identify itself  
31 in any way, including by name, identifying number, cryptographic key, office, or account number, as  
32 having the powers under paragraph (1).

33 (b) Presumption of exclusivity of certain powers. If a person has the powers that are  
34 specified in subsection (a)(1)(B), the powers are presumed to be exclusive.

35 (c) Control through another person. A person has control of electronic money if another  
36 person, other than the transferor of an interest in the electronic money:

37 (1) has control of the electronic money and acknowledges that it has control on behalf of  
38 the person, or

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1           (2) obtains control of the electronic money after having acknowledged that it will obtain  
2 control of the electronic money on behalf of the person.

3           (d) Meaning of exclusive. A power is exclusive under subsection (a)(1)(B), even if:

4           (1) the electronic money, a record attached to or logically associated with the electronic  
5 money, or a system in which the electronic money is recorded limits the use of the electronic money or  
6 has a protocol programmed to cause a change, including a transfer or loss of control; or

7           (2) the person shares the power with another person.

8       281:54 New Sections; Control of Controllable Electronic Record, Controllable Account, or  
9 Controllable Payment Intangible; Nor Requirement to Confirm; Secured Transactions; UCC. Amend RSA  
10 382-A by inserting after section 107 the following new sections:

11       382-A:9-107A Control of Controllable Electronic Record, Controllable Account, or Controllable  
12 Payment Intangible.

13           (a) Control under Section 12-105. A secured party has control of a controllable electronic  
14 record as provided in Section 12-105.

15           (b) Control of controllable account and controllable payment intangible. A secured party has  
16 control of a controllable account or controllable payment intangible if the secured party has control of the  
17 controllable electronic record that evidences the controllable account or controllable payment intangible.

18       382-A:9-107B No Requirement to Acknowledge or Confirm; No Duties.

19           (a) No requirement to acknowledge. A person that has control under Section 9-104, 9-105,  
20 or 9-105A is not required to acknowledge that it has or will obtain control on behalf of another person.

21           (b) No duties or confirmation. If a person acknowledges that it has or will obtain control on  
22 behalf of another person, unless the person otherwise agrees or law other than this article otherwise  
23 provides, the person does not owe any duty to the other person and is not required to confirm the  
24 acknowledgment to another person.

25       281:55 Attachment and Enforceability of Security Interest; Secured Transactions; UCC. Amend RSA  
26 382-A:9-203(b)(3) to read as follows:

27           (3) one of the following conditions is met:

28           (A) the debtor has ~~[authenticated]~~ **signed** a security agreement that provides a  
29 description of the collateral and, if the security interest covers timber to be cut, a description of the land  
30 concerned;

31           (B) the collateral is not a certificated security and is in the possession of the secured  
32 party under Section 9-313 pursuant to the debtor's security agreement;

33           (C) the collateral is a certificated security in registered form and the security  
34 certificate has been delivered to the secured party under Section 8-301 pursuant to the debtor's security  
35 agreement; ~~[or]~~

36           (D) the collateral is **controllable accounts, controllable electronic records, controllable**  
37 **payment intangibles**, deposit accounts, ~~[electronic chattel paper,]~~ **electronic documents, electronic money,**  
38 investment property, **or** letter-of-credit rights~~[, or electronic documents,]~~ and the secured party has control

1 under Section 7-106, 9-104, 9-105, *9-105A*, 9-106, [Ø] 9-107, *or 9-107A* pursuant to the debtor's security  
2 agreement; *or*

3 *(E) the collateral is chattel paper and the secured party has possession and control*  
4 *under Section 9-314A pursuant to the debtor's security agreement.*

5 281:56 Attachment and Enforceability; Secured Transactions; UCC. Amend RSA 382-A:9-203(b)-(c)  
6 to read as follows:

7 (b) When after-acquired property clause not effective. *Subject to subsection (c)*, a security  
8 interest does not attach under a term constituting an after-acquired property clause to:

9 (1) consumer goods, other than an accession when given as additional security, unless  
10 the debtor acquires rights in them within 10 days after the secured party gives value; or

11 (2) a commercial tort claim.

12 (c) *Limitation on subsection (b). Subsection (b) does not prevent a security interest from*  
13 *attaching:*

14 *(1) to consumer goods as proceeds under Section 9-315(a) or commingled goods under*  
15 *section 9-336(c);*

16 *(2) to a commercial tort claim as proceeds under Section 9-315(a); or*

17 *(3) under an after-acquired property clause to property that is proceeds of consumer*  
18 *goods or a commercial tort claim.*

19 (d) Future advances and other value. A security agreement may provide that collateral  
20 secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection  
21 with, future advances or other value, whether or not the advances or value are given pursuant to  
22 commitment.

23 281:57 Duties and Rights; Secured Party in Control; Secured Transactions; UCC. Amend the  
24 introductory paragraph of RSA 382-A:9-207(c) to read as follows:

25 (c) Duties and rights when secured party in possession or control. Except as otherwise  
26 provided in subsection (d), a secured party having possession of collateral or control of collateral under  
27 Section 7-106, 9-104, 9-105, *9-105A*, 9-106, [Ø] 9-107, *or 9-107A*:

28 281:58 Additional Duties of Secured Party; Secured Transactions; UCC. Amend RSA 382-A:9-  
29 208(b) to read as follows:

30 (b) Duties of secured party after receiving demand from debtor. Within 10 days after  
31 receiving[~~an authenticated~~] *a signed* demand by the debtor:

32 (1) a secured party having control of a deposit account under Section 9-104(a)(2) shall  
33 send to the bank with which the deposit account is maintained [~~an authenticated~~] *a signed* statement that  
34 releases the bank from any further obligation to comply with instructions originated by the secured party;

35 (2) a secured party having control of a deposit account under Section 9-104(a)(3) shall:

36 (A) pay the debtor the balance on deposit in the deposit account; or

37 (B) transfer the balance on deposit into a deposit account in the debtor's name;

1 (3) a secured party, other than a buyer, having control [of electronic chattel paper] under  
2 Section 9-105 *of an electronic copy of a record evidencing chattel paper* shall *transfer control of the*  
3 *electronic copy to the debtor or a person designated by the debtor;* [;]

4 [(A) communicate the authoritative copy of the electronic chattel paper to the debtor  
5 or its designated custodian;

6 (B) if the debtor designates a custodian that is the designated custodian with which  
7 the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to  
8 the custodian an authenticated record releasing the designated custodian from any further obligation to  
9 comply with instructions originated by the secured party and instructing the custodian to comply with  
10 instructions originated by the debtor; and

11 (C) take appropriate action to enable the debtor or its designated custodian to make  
12 copies of or revisions to the authoritative copy which add or change an identified assignee of the  
13 authoritative copy without the consent of the secured party;]

14 (4) a secured party having control of investment property under Section 8-106(d)(2) or 9-  
15 106(b) shall send to the securities intermediary or commodity intermediary with which the security  
16 entitlement or commodity contract is maintained an [authenticated record] *a signed record* that releases  
17 the securities intermediary or commodity intermediary from any further obligation to comply with  
18 entitlement orders or directions originated by the secured party;

19 (5) a secured party having control of a letter-of-credit right under Section 9-107 shall  
20 send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the  
21 secured party [an authenticated] *a signed* release from any further obligation to pay or deliver proceeds of  
22 the letter of credit to the secured party; [and

23 (6) a secured party having control of an electronic document shall:

24 (A) give control of the electronic document to the debtor or its designated custodian;

25 (B) if the debtor designates a custodian that is the designated custodian with which  
26 the authoritative copy of the electronic document is maintained for the secured party, communicate to the  
27 custodian an authenticated record releasing the designated custodian from any further obligation to  
28 comply with instructions originated by the secured party and instructing the custodian to comply with  
29 instructions originated by the debtor; and

30 (C) take appropriate action to enable the debtor or its designated custodian to make  
31 copies of or revisions to the authoritative copy which add or change an identified assignee of the  
32 authoritative copy without the consent of the secured party.]

33 (6) *a secured party having control under Section 7-106 of an authoritative copy of an*  
34 *electronic document of title shall transfer control of the authoritative copy to the debtor or a person*  
35 *designated by the debtor;*

36 (7) *a secured party having control under Section 9-105A of electronic money shall*  
37 *transfer control of the electronic money to the debtor or a person designated by the debtor; and*

1                   (8) *a secured party having control under Section 12-105 of a controllable electronic*  
2 *record shall transfer control of the controllable electronic record to the debtor or a person designated by*  
3 *the debtor.*

4           281:59 Law Governing Perfection; Secured Transactions; UCC. Amend RSA 382-A:9-301 to read as  
5 follows:

6           382-A:9-301 Law Governing Perfection and Priority of Security Interests. Except as otherwise  
7 provided in Sections 9-303 through ~~[9-306]~~ **9-306B**, the following rules determine the law governing  
8 perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

9                   (1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction,  
10 the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the  
11 priority of a security interest in collateral.

12                   (2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs  
13 perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in  
14 that collateral.

15                   (3) Except as otherwise provided in paragraph (4), while tangible negotiable documents,  
16 goods, instruments, **or tangible** money~~[, or tangible chattel paper]~~ is located in a jurisdiction, the local law  
17 of that jurisdiction governs:

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

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

20                           (C) the effect of perfection or nonperfection and the priority of a nonpossessory  
21 security interest in the collateral.

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

25           281:60 New Sections; Chattel Paper Evidenced by Authoritative Electronic Copy. Amend RSA 382-A  
26 by inserting after section 9-306 the following new sections:

27           382-A:9-306A Law Governing Perfection and Priority of Security Interests in Chattel Paper.

28                   (a) Chattel paper evidenced by authoritative electronic copy. Except as provided in  
29 subsection (e), if chattel paper is evidenced only by an authoritative electronic copy of the chattel paper or  
30 is evidenced by an authoritative electronic copy and an authoritative tangible copy, the local law of the  
31 electronic chattel paper's jurisdiction governs perfection, the effect of perfection or nonperfection, and the  
32 priority of a security interest in the chattel paper.

33                   (b) Electronic Chattel Paper's Jurisdiction. The following rules determine the electronic  
34 chattel paper's jurisdiction under this section:

35                           (1) If the authoritative electronic copy of chattel paper, or a record attached to or logically  
36 associated with the electronic copy which is readily available for review, expressly provides that a  
37 particular jurisdiction is the electronic chattel paper's jurisdiction for purposes of this part, this article, or  
38 the [Uniform Commercial Code], that jurisdiction is the electronic chattel paper's jurisdiction.

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1           (2) If paragraph (1) does not apply and the rules of the system in which the electronic  
2 copy is recorded are readily available for review and expressly provide that a particular jurisdiction is the  
3 controllable electronic record's jurisdiction for purposes of this part, this article, or the [Uniform  
4 Commercial Code], that jurisdiction is the electronic chattel paper's jurisdiction.

5           (3) If paragraphs (1) and (2) do not apply and the electronic copy, or a record attached to  
6 or logically associated with the electronic copy which is readily available for review, expressly provides  
7 that the chattel paper is governed by the law of a particular jurisdiction, that jurisdiction is the electronic  
8 chattel paper's jurisdiction.

9           (4) If paragraphs (1) through (3) do not apply and the rules of the system in which the  
10 electronic copy is recorded are readily available for review and expressly provide that the chattel paper or  
11 the system is governed by the law of a particular jurisdiction, that jurisdiction is the electronic chattel  
12 paper's jurisdiction.

13           (5) If paragraphs (1) through (4) do not apply, the electronic chattel paper's jurisdiction is  
14 the jurisdiction in which the debtor is located.

15           (c) Relation of transaction to electronic chattel paper's jurisdiction not necessary.  
16 Subsections (a) and (b) apply even if a transaction does not bear any relation to the electronic chattel  
17 paper's jurisdiction.

18           (d) Chattel paper evidenced by authoritative tangible copy. If an authoritative tangible copy  
19 of a record evidences chattel paper and the chattel paper is not evidenced by an authoritative electronic  
20 copy, while an authoritative tangible copy of a record evidencing chattel paper is located in a jurisdiction,  
21 the local law of that jurisdiction governs:

22                   (A) perfection of a security interest in the chattel paper by possession under Section  
23 9-314A; and

24                   (B) the effect of perfection or nonperfection and the priority of a security interest in  
25 the chattel paper.

26           (e) When perfection governed by law of jurisdiction where debtor is located. The local law of  
27 the jurisdiction in which the debtor is located governs perfection of a security interest in chattel paper by  
28 filing.

29           382-A:9-306B Law Governing Perfection and Priority of Security Interests in Controllable Accounts,  
30 Controllable Electronic Records, and Controllable Payment Intangibles.

31           (a) Governing law: general rules. Except as provided in subsection (b), the local law of the  
32 controllable electronic record's jurisdiction as specified in Section 12-107(c) and (d) governs perfection,  
33 the effect of perfection or nonperfection, and the priority of a security interest in a controllable account,  
34 controllable electronic record, or controllable payment intangible.

35           (b) When perfection governed by law of jurisdiction where debtor is located. The local law of  
36 the jurisdiction in which the debtor is located governs:

37                   (1) perfection of a security interest in a controllable account, controllable electronic  
38 record, or controllable payment intangible by filing; and

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1 (2) automatic perfection of a security interest in a controllable payment intangible created  
2 by a sale of the controllable payment intangible.

3 281:61 When Filing Required; Secured Transactions; UCC. Amend RSA 382-A:9-310(b)(8)-(10) to  
4 read as follows:

5 (8) in *controllable accounts, controllable electronic records, controllable payment*  
6 *intangibles*, deposit accounts, [~~electronic chattel paper,~~] electronic documents, investment property, or  
7 letter-of-credit rights which is perfected by control under Section 9-314;

8 (9) *in chattel paper which is perfected by possession and control under Section 9-314A;*

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

10 [~~(10)~~] (11) that is perfected under Section 9-316.

11 281:62 Perfection of Security Interests; Secured Transactions; UCC. Amend RSA 382-A:9-312 to  
12 read as follows:

13 382-A:9-312 Perfection of Security Interests in Chattel Paper, *Controllable Accounts, Controllable*  
14 *Electronic Records, Controllable Payment Intangibles*, Deposit Accounts, Documents, Goods Covered by  
15 Documents, Instruments, Investment Property, Letter-of-Credit Rights, and Money; Perfection by  
16 Permissive Filing; Temporary Perfection Without Filing or Transfer of Possession.

17 (a) Perfection by filing permitted. A security interest in chattel paper, [~~negotiable documents,~~]  
18 *controllable accounts, controllable electronic records, controllable payment intangibles*, instruments, [~~or~~]  
19 investment property, *or negotiable documents* may be perfected by filing.

20 (b) Control or possession of certain collateral. Except as otherwise provided in Section 9-  
21 315(c) and (d) for proceeds:

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

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

26 (3) a security interest in *tangible* money may be perfected only by the secured party's  
27 taking possession under Section 9-313; *and*

28 (4) *a security interest in electronic money may be perfected only by control under Section*  
29 *9-314.*

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

32 (1) a security interest in the goods may be perfected by perfecting a security interest in  
33 the document; and

34 (2) a security interest perfected in the document has priority over any security interest  
35 that becomes perfected in the goods by another method during that time.

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

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

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- 1                   (2) the bailee's receipt of notification of the secured party's interest; or  
2                   (3) filing as to the goods.

3                   (e) Temporary perfection: new value. A security interest in certificated securities, negotiable  
4 documents, or instruments is perfected without filing or the taking of possession or control for a period of  
5 20 days from the time it attaches to the extent that it arises for new value given under [~~an authenticated~~] **a**  
6 **signed** security agreement.

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

- 11                   (1) ultimate sale or exchange; or  
12                   (2) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or  
13 otherwise dealing with them in a manner preliminary to their sale or exchange.

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

- 17                   (1) ultimate sale or exchange; or  
18                   (2) presentation, collection, enforcement, renewal, or registration of transfer.

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

21                   281:63 Possession By Secured Party Perfection; Secured Transactions; UCC. Amend RSA 382-A:9-  
22 313(a) to read as follows:

23                   (a) Perfection by possession or delivery. Except as otherwise provided in subsection (b), a  
24 secured party may perfect a security interest in [~~tangible negotiable documents,~~] goods, instruments,  
25 **negotiable tangible documents, or tangible** money, [~~or tangible chattel paper~~] by taking possession of the  
26 collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the  
27 certificated securities under Section 8-301.

28                   281:64 Possession by a Secured Party; Perfection; Secured Transactions; UCC. Amend RSA 382-  
29 A:9-313(c) to read as follows:

30                   (c) Collateral in possession of person other than debtor. With respect to collateral other than  
31 certificated securities and goods covered by a document, a secured party takes possession of collateral in  
32 the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the  
33 debtor in the ordinary course of the debtor's business, when:

- 34                   (1) the person in possession [~~authenticates~~] **signs** a record acknowledging that it holds  
35 possession of the collateral for the secured party's benefit; or  
36                   (2) the person takes possession of the collateral after having [~~authenticated~~] **signed** a  
37 record acknowledging that it will hold possession of collateral for the secured party's benefit.

38                   281:65 Perfection by Control; Secured Transactions; UCC. Amend RSA 382-A:9-314(a)-(b) to read  
39 as follows:

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1 (a) Perfection by control. A security interest in~~[investment property, deposit accounts, letter-~~  
2 ~~of-credit rights, electronic chattel paper, or electronic documents]~~ **controllable accounts, controllable**  
3 **electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic**  
4 **money, investment property, or letter-of-credit rights** may be perfected by control of the collateral under  
5 Section 7-106, 9-104, ~~[9-105,]~~ **9-105A**, 9-106,~~[or]~~ 9-107, **or 9-107A**.

6 (b) Specified collateral: time of perfection by control; continuation of perfection. A security  
7 interest in **controllable accounts, controllable electronic records, controllable payment intangibles**, deposit  
8 accounts,~~[electronic chattel paper, letter-of-credit rights, or]~~ **electronic documents, electronic money, or**  
9 **letter-of-credit rights** is perfected by control under Section 7-106, 9-104, ~~[9-105,]~~ **9-105A**, ~~[or]~~ 9-107, **or 9-**  
10 **107A** when the secured party obtains control and remains perfected by control only while the secured  
11 party retains control.

12 281:66 New Section; Perfection by Possession; Secured Transactions; UCC. Amend RSA 382-A by  
13 inserting after section 9-314 the following new section:

14 382-A:9-314A Perfection by Possession and Control of Chattel Paper.

15 (a) Perfection by possession and control. A secured party may perfect a security interest in  
16 chattel paper by taking possession of each authoritative tangible copy of the record evidencing the chattel  
17 paper and obtaining control of each authoritative electronic copy of the electronic record evidencing the  
18 chattel paper.

19 (b) Time of perfection; continuation of perfection. A security interest is perfected under  
20 subsection (a) when the secured party takes possession and obtains control and remains perfected under  
21 subsection (a) only while the secured party retains possession and control.

22 (c) Application of Section 9-313 to Perfection by Possession of Chattel Paper. Section 9-  
23 313(c) and (f) through (i) applies to perfection by possession of an authoritative tangible copy of a record  
24 evidencing chattel paper.

25 281:67 Continued Perfection of Security Interest; Secured Transactions; UCC. Amend the  
26 introductory paragraph of RSA 382-A:9-316(a) to read as follows:

27 (a) General rule: effect on perfection of change in governing law. A security interest  
28 perfected pursuant to the law of the jurisdiction designated in Section 9-301(1), ~~[or]~~ 9-305(c), **9-306A(e)**,  
29 **or 9-306B(b)** remains perfected until the earliest of:

30 281:68 Continued Perfection of Security Interest; Secured Transactions; UCC. Amend RSA 382-A:9-  
31 316(f) to read as follows:

32 (f) Change in jurisdiction of **controllable electronic record**, bank, issuer, nominated person,  
33 securities intermediary, or commodity intermediary. A security interest in **controllable accounts,**  
34 **controllable electronic records, controllable payment intangibles, chattle paper**, deposit accounts, letter-of-  
35 credit rights, or investment property which is perfected under the law of the **controllable electronic record's**  
36 **jurisdiction, the electronic chattel paper's jurisdiction, the** bank's jurisdiction, the issuer's jurisdiction, a  
37 nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's  
38 jurisdiction, as applicable, remains perfected until the earlier of:

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1 (1) the time the security interest would have become unperfected under the law of that  
2 jurisdiction; or

3 (2) the expiration of 4 months after a change of the applicable jurisdiction to another  
4 jurisdiction.

5 281:69 Interest that Take Priority Over or Take Free of Security Interest or Agricultural Lien; Secured  
6 Transactions; UCC. Amend RSA 382-A:9-317 to read as follows:

7 382-A:9-317 Interests That Take Priority Over or Take Free of Security Interest or Agricultural Lien.

8 (a) Conflicting security interests and rights of lien creditors. A security interest or agricultural  
9 lien is subordinate to the rights of:

10 (1) a person entitled to priority under Section 9-322; and

11 (2) except as otherwise provided in subsection (e), a person that becomes a lien creditor  
12 before the earlier of the time:

13 (A) the security interest or agricultural lien is perfected; or

14 (B) one of the conditions specified in Section 9-203(b)(3) is met and a financing  
15 statement covering the collateral is filed.

16 (b) Buyers that receive delivery. Except as otherwise provided in subsection (e), a buyer,  
17 other than a secured party, of ~~[tangible chattel paper, tangible documents,]~~ goods, instruments, ***tangible***  
18 ***documents***, or a certificated security takes free of a security interest or agricultural lien if the buyer gives  
19 value and receives delivery of the collateral without knowledge of the security interest or agricultural lien  
20 and before it is perfected.

21 (c) Lessees that receive delivery. Except as otherwise provided in subsection (e), a lessee of  
22 goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of  
23 the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

24 (d) Licensees and buyers of certain collateral. ***Subject to subsections (f), (g), (h), and (i)*** a  
25 licensee of a general intangible or a buyer, other than a secured party, of collateral other than ~~[tangible~~  
26 ~~chattel paper,]~~ ***electronic money***, tangible documents, goods, instruments, or a certificated security takes  
27 free of a security interest if the licensee or buyer gives value without knowledge of the security interest  
28 and before it is perfected.

29 (e) Purchase-money security interest. Except as otherwise provided in Sections 9-320 and  
30 9-321, if a person files a financing statement with respect to a purchase-money security interest before or  
31 within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over  
32 the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches  
33 and the time of filing.

34 ***(f) Buyers of chattel paper. A buyer, other than a secured party, of chattel paper takes free of***  
35 ***a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives***  
36 ***value and:***

37 ***(1) receives delivery of each authoritative tangible copy of the record evidencing the***  
38 ***chattel paper; and,***

1           (2) *if each authoritative electronic copy of the record evidencing the chattel paper can be*  
2 *subjected to control under Section 9-105, obtains control of each authoritative electronic copy.*

3           (g) *Buyers of electronic documents. A buyer of an electronic document takes free of a*  
4 *security interest if, without knowledge of the security interest and before it is perfected, the buyer gives*  
5 *value and, if each authoritative electronic copy of the document can be subjected to control under Section*  
6 *7-106, obtains control of each authoritative electronic copy.*

7           (h) *Buyers of controllable electronic records. A buyer of a controllable electronic record takes*  
8 *free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer*  
9 *gives value and obtains control of the controllable electronic record.*

10          (i) *Buyers of controllable accounts and controllable payment intangibles. A buyer, other than*  
11 *a secured party, of a controllable account or a controllable payment intangible takes free of a security*  
12 *interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and*  
13 *obtains control of the controllable account or controllable payment intangible.*

14          281:70 New Section; Priority of Security Interests; Secured Transactions; UCC. Amend RSA 382-A  
15 by inserting after section 9-326 the following new section:

16          382-A:9-326A Priority of Security Interests in Controllable Account, Controllable Electronic Record,  
17 and Controllable Payment Intangible. A security interest in a controllable account, controllable electronic  
18 record, or controllable payment intangible held by a secured party having control of the account, electronic  
19 record, or payment intangible has priority over a conflicting security interest held by a secured party that  
20 does not have control.

21          281:71 Priority of Purchaser of Chattel Paper or Instrument; Secured Transactions; UCC. Amend  
22 RSA 382-A:9-330(a)-(b) to read as follows:

23          (a) Purchaser's priority: security interest claimed merely as proceeds. A purchaser of chattel  
24 paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of  
25 inventory subject to a security interest if:

26               (1) in good faith and in the ordinary course of the purchaser's business, the purchaser  
27 gives new value and takes possession of *each authoritative tangible copy of the record evidencing* the  
28 chattel paper [øf] *and* obtains control *under RSA 382-A:9-105* of *each authoritative electronic copy of the*  
29 *record evidencing* the chattel paper [~~under Section 9-105~~]; and

30               (2) the [~~chattel paper does~~] *authoritative copies of the record evidencing the chattel*  
31 *paper do* not indicate that [~~it has~~] *the copies have* been assigned to an identified assignee other than the  
32 purchaser.

33          (b) Purchaser's priority: other security interests. A purchaser of chattel paper has priority  
34 over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory  
35 subject to a security interest if the purchaser gives new value and takes possession of *each authoritative*  
36 *tangible copy of the record evidencing* the chattel paper [øf] *and* obtains control *under RSA 382-A:9-105*  
37 of *each authoritative electronic copy of the record evidencing* the chattel paper [~~under Section 9-105~~] in  
38 good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase  
39 violates the rights of the secured party.

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1       281:72 Priority Rights of Purchasers; Secured Transactions; UCC. Amend RSA 382-A:9-331 to read  
2 as follows:

3       382-A:9-331 Priority of Rights of Purchasers of *Controllable Accounts, Controllable Electronic*  
4 *Records, Controllable Payment Intangibles*, Instruments, Documents, and Securities Under Other Articles;  
5 Priority of Interests in Financial Assets and Security Entitlements *and Protections Against Assertions of*  
6 *Claims* Under [Article 8] *Articles 8 and 12*.

7           (a) Rights under Articles 3, 7, [~~and~~] 8, *and 12* not limited. This article does not limit the rights  
8 of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has  
9 been duly negotiated, or a protected purchaser of a security, *or a qualifying purchaser of a controllable*  
10 *account, controllable electronic record, or controllable payment intangible*. These holders or purchasers  
11 take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, [~~and~~]  
12 *8, and 12*.

13           (b) Protection under [~~Article 8~~] *Articles 8 and 12*. This article does not limit the rights of or  
14 impose liability on a person to the extent that the person is protected against the assertion of a claim  
15 under [~~Article 8~~] *Articles 8 and 12*.

16           (c) Filing not notice. Filing under this article does not constitute notice of a claim or defense  
17 to the holders, [~~or~~] purchasers, or persons described in subsections (a) and (b).

18       281:73 Transfer of Money; Transfer of Funds; Secured Transactions; UCC. Amend RSA 382-A:9-  
19 332 to read as follows:

20       382-A:9-332 Transfer of Money; Transfer of Funds From Deposit Account.

21           (a) Transferee of *tangible* money. A transferee of *tangible* money takes the money free of a  
22 security interest [~~unless the transferee acts~~] *if the transferee receives delivery of the money without acting*  
23 in collusion with the debtor in violating the rights of the secured party.

24           (b) *Transferee of electronic money. A transferee of electronic money takes the money free of*  
25 *a security interest if the transferee obtains control of the money without acting in collusion with the debtor*  
26 *in violating the rights of the secured party.*

27           (c) Transferee of funds from deposit account. A transferee of funds from a deposit account  
28 takes the funds free of a security interest in the deposit account [~~unless the transferee acts~~] *if the*  
29 *transferee receives the funds without acting* in collusion with the debtor in violating the rights of the  
30 secured party.

31       281:74 Discharge of Account Debtor; Secured Transactions; UCC. Amend RSA 382-A:9-406 to read  
32 as follows:

33       382-A:9-406 Discharge of Account Debtor; Notification of Assignment; Identification and Proof of  
34 Assignment; Restrictions on Assignment of Accounts, Chattel Paper, Payment Intangibles, and  
35 Promissory Notes Ineffective.

36           (a) Discharge of account debtor; effect of notification. Subject to subsections (b) through (i)  
37 *and (l)*, an account debtor on an account, chattel paper, or a payment intangible may discharge its  
38 obligation by paying the assignor until, but not after, the account debtor receives a notification,  
39 [~~authenticated~~] *signed* by the assignor or the assignee, that the amount due or to become due has been

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1 assigned and that payment is to be made to the assignee. After receipt of the notification, the account  
2 debtor may discharge its obligation by paying the assignee and may not discharge the obligation by  
3 paying the assignor.

4 (b) When notification ineffective. Subject to ~~[subsection (h)]~~ **subsections (h) and (i)**,  
5 notification is ineffective under subsection (a):

6 (1) if it does not reasonably identify the rights assigned;

7 (2) to the extent that an agreement between an account debtor and a seller of a payment  
8 intangible limits the account debtor's duty to pay a person other than the seller and the limitation is  
9 effective under law other than this article; or

10 (3) at the option of an account debtor, if the notification notifies the account debtor to  
11 make less than the full amount of any installment or other periodic payment to the assignee, even if:

12 (A) only a portion of the account, chattel paper, or payment intangible has been  
13 assigned to that assignee;

14 (B) a portion has been assigned to another assignee; or

15 (C) the account debtor knows that the assignment to that assignee is limited.

16 (c) Proof of assignment. Subject to ~~[subsection (h)]~~ **subsections (h) and (i)**, if requested by  
17 the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been  
18 made. Unless the assignee complies, the account debtor may discharge its obligation by paying the  
19 assignor, even if the account debtor has received a notification under subsection (a).

20 (d) Term restricting assignment generally ineffective. Except as otherwise provided in  
21 subsection (e) and Sections 2A-303 and 9-407, and subject to subsection (h), a term in an agreement  
22 between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

23 (1) prohibits, restricts, or requires the consent of the account debtor or person obligated  
24 on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or  
25 enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note;  
26 or

27 (2) provides that the assignment or transfer or the creation, attachment, perfection, or  
28 enforcement of the security interest may give rise to a default, breach, right of recoupment, claim,  
29 defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible,  
30 or promissory note.

31 (e) Inapplicability of subsection (d) to certain sales. Subsection (d) does not apply to the sale  
32 of a payment intangible or promissory note, other than a sale pursuant to a disposition under Section 9-  
33 610 or an acceptance of collateral under Section 9-620.

34 (f) Legal restrictions on assignment generally ineffective. Except as otherwise provided in  
35 Sections 2A-303 and 9-407 and subject to subsections (h) and (i), a rule of law, statute, or regulation that  
36 prohibits, restricts, or requires the consent of a government, governmental body or official, or account  
37 debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is  
38 ineffective to the extent that the rule of law, statute, or regulation:

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1 (1) prohibits, restricts, or requires the consent of the government, governmental body or  
2 official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or  
3 enforcement of a security interest in, the account or chattel paper; or

4 (2) provides that the assignment or transfer or the creation, attachment, perfection, or  
5 enforcement of the security interest may give rise to a default, breach, right of recoupment, claim,  
6 defense, termination, right of termination, or remedy under the account or chattel paper.

7 (g) Subsection (b)(3) not waivable. Subject to subsection (h), an account debtor may not  
8 waive or vary its option under subsection (b)(3).

9 (h) Rule for individual under other law. This section is subject to law other than this article  
10 which establishes a different rule for an account debtor who is an individual and who incurred the  
11 obligation primarily for personal, family, or household purposes.

12 (i) Inapplicability. This section does not apply to:

13 (1) an assignment of a health-care-insurance receivable; or

14 (2) an assignment or transfer of or creation of a security interest in:

15 (A) a claim or right to receive compensation for injuries or sickness as described in  
16 26 U.S.C.A § 104(a)(1) or (2), as amended from time to time; or

17 (B) a claim or right to receive benefits under a special needs trust as described in 42  
18 U.S.C.A § 1396p(d)(4), as amended from time to time.

19 (j) Section prevails over inconsistent law. Except as otherwise provided in subsection (i), this  
20 section prevails over any inconsistent provision of an existing or future statute, rule, or regulation of this  
21 State unless the provision is contained in a statute of this State, refers expressly to this section, and  
22 states that the provision prevails over this section.

23 ***(k) Inapplicability to interests in certain entities. Subsections (d), (f), and (j) do not apply to a***  
24 ***security interest in an ownership interest in a general partnership, limited partnership, or limited liability***  
25 ***company.***

26 ***(l) Inapplicability of certain subsections. Subsections (a) through (c) and (g) do not apply to a***  
27 ***controllable account or controllable payment intangible.***

28 281:75 Rights After Default; Secured Transactions; UCC. Amend RSA 382-A:9-601(b) to read as  
29 follows:

30 (b) Rights and duties of secured party in possession or control. A secured party in  
31 possession of collateral or control of collateral under Section 7-106, 9-104, 9-105, **9-105A**, 9-106, [øf] 9-  
32 107, **or 9-107A** has the rights and duties provided in Section 9-207.

33 281:76 Unknown Debtor or Secondary Obligor; Secured Transactions; UCC. RSA 382-A:9-605 is  
34 repealed and reenacted to read as follows:

35 (a) When no duty owed by secured party. Except as provided in subsection (b), a secured  
36 party does not owe a duty based on its status as secured party:

37 (1) to a person that is a debtor or obligor, unless the secured party knows:

38 (A) that the person is a debtor or obligor;

39 (B) the identity of the person; and

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1 (C) how to communicate with the person; or  
2 (2) to a secured party or lienholder that has filed a financing statement against a person,  
3 unless the secured party knows:

- 4 (A) that the person is a debtor; and  
5 (B) the identity of the person.

6 (b) When secured party owes duty to debtor notwithstanding subsection (a). A secured party  
7 owes a duty based on its status as a secured party to a person that is a debtor if, at the time the secured  
8 party obtains control of collateral that is a controllable account, controllable electronic record, or  
9 controllable payment intangible, the secured party knows that the information specified in subsection  
10 (a)(1)(A), (B), or (C) is not provided by the collateral, a record attached to or logically associated with the  
11 collateral, or the system in which the collateral is recorded.

12 281:77 Notification Before Disposition of Collateral; Secured Transactions; UCC. Amend RSA 382-  
13 A:9-611 to read as follows:

14 382-A:9-611 Notification Before Disposition of Collateral.

15 (a) "Notification date." In this section, "notification date" means the earlier of the date on  
16 which:

- 17 (1) a secured party sends to the debtor and any secondary obligor [~~an authenticated~~] **a**  
18 **signed** notification of disposition; or  
19 (2) the debtor and any secondary obligor waive the right to notification.

20 (b) Notification of disposition required. Except as otherwise provided in subsection (d), a  
21 secured party that disposes of collateral under Section 9-610 shall send to the persons specified in  
22 subsection (c) a reasonable authenticated notification of disposition.

23 (c) Persons to be notified. To comply with subsection (b), the secured party shall send [~~an~~  
24 ~~authenticated~~] **a signed** notification of disposition to:

- 25 (1) the debtor;  
26 (2) any secondary obligor; and  
27 (3) if the collateral is other than consumer goods:

28 (A) any other person from which the secured party has received, before the  
29 notification date, an authenticated notification of a claim of an interest in the collateral;

30 (B) any other secured party or lienholder that, 10 days before the notification date,  
31 held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

- 32 (i) identified the collateral;  
33 (ii) was indexed under the debtor's name as of that date; and  
34 (iii) was filed in the office in which to file a financing statement against the debtor

35 covering the collateral as of that date; and

36 (C) any other secured party that, 10 days before the notification date, held a security  
37 interest in the collateral perfected by compliance with a statute, regulation, or treaty described in Section  
38 9-311(a).

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1 (d) Subsection (b) inapplicable: perishable collateral; recognized market. Subsection (b)  
2 does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type  
3 customarily sold on a recognized market.

4 (e) Compliance with subsection (c)(3)(B). A secured party complies with the requirement for  
5 notification prescribed by subsection (c)(3)(B) if:

6 (1) not later than 20 days or earlier than 30 days before the notification date, the secured  
7 party requests, in a commercially reasonable manner, information concerning financing statements  
8 indexed under the debtor's name in the office indicated in subsection (c)(3)(B); and

9 (2) before the notification date, the secured party:

10 (A) did not receive a response to the request for information; or

11 (B) received a response to the request for information and sent ~~[an authenticated]~~ **a**  
12 **signed** notification of disposition to each secured party or other lienholder named in that response whose  
13 financing statement covered the collateral.

14 281:78 Contents and Form of Notification Before Disposition of Collateral; Secured Transactions;  
15 UCC. Amend RSA 382-A:9-614 to read as follows:

16 382-A:9-614 Contents and Form of Notification Before Disposition of Collateral: Consumer-Goods  
17 Transaction.

18 In a consumer-goods transaction, the following rules apply:

19 (1) A notification of disposition must provide the following information:

20 (A) the information specified in Section 9-613(1);

21 (B) a description of any liability for a deficiency of the person to which the notification  
22 is sent;

23 (C) a telephone number from which the amount that must be paid to the secured  
24 party to redeem the collateral under Section 9-623 is available; and

25 (D) a telephone number or mailing address from which additional information  
26 concerning the disposition and the obligation secured is available.

27 (2) A particular phrasing of the notification is not required.

28 (3) The following form of notification, when completed, provides sufficient information:

29 [Name and address of secured party]

30 [Date]

31 NOTICE OF OUR PLAN TO SELL PROPERTY

32 [Name and address of any obligor who is also a debtor]

33 Subject: [Identification of Transaction]

34 We have your [describe collateral] , because you broke promises in our agreement.

35 [For a public disposition:]

36 We will sell [describe collateral] at public sale. A sale could include a lease or license. The sale will be  
37 held as follows:

38 Date:

39 Time:

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1 Place:

2 You may attend the sale and bring bidders if you want.

3 [For a private disposition:]

4 We will sell [describe collateral] at private sale sometime after [date]. A sale could include a lease or  
5 license.

6 The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get  
7 less money than you owe, you [will or will not, as applicable] still owe us the difference. If we get more  
8 money than you owe, you will get the extra money, unless we must pay it to someone else.

9 You can get the property back at any time before we sell it by paying us the full amount you owe (not just  
10 the past due payments), including our expenses. To learn the exact amount you must pay, call us at  
11 [telephone number].

12 If you want us to explain to you in writing *or in an electronic document* how we have figured the amount  
13 that you owe us, you may call us at [telephone number] [or write us at secured party's address *or a*  
14 *description of electronic communication method*] and request a written explanation *or an explanation in an*  
15 *electronic document*. [We will charge you \$\_\_\_\_\_ for the explanation if we sent you another written  
16 explanation of the amount you owe us within the last six months.]

17 If you need more information about the sale call us at [telephone number ] [or write us at [secured party's  
18 address] [*or description of electronic communication method*]].

19 We are sending this notice to the following other people who have an interest in [describe collateral] or  
20 who owe money under your agreement:

21 [Names of all other debtors and obligors, if any]

22 [End of Form]

23 (4) A notification in the form of paragraph (3) is sufficient, even if additional information  
24 appears at the end of the form.

25 (5) A notification in the form of paragraph (3) is sufficient, even if it includes errors in  
26 information not required by paragraph (1), unless the error is misleading with respect to rights arising  
27 under this article.

28 (6) If a notification under this section is not in the form of paragraph (3), law other than  
29 this article determines the effect of including information not required by paragraph (1).

30 281:79 Explanation of Calculation of Surplus or Deficiency; Secured Transactions; UCC. Amend  
31 RSA 382-A:9-616(a)-(c) to read as follows:

32 (a) Definitions. In this section:

33 (1) "Explanation" means a [~~writing~~] *record* that:

34 (A) states the amount of the surplus or deficiency;

35 (B) provides an explanation in accordance with subsection (c) of how the secured  
36 party calculated the surplus or deficiency;

37 (C) states, if applicable, that future debits, credits, charges, including additional  
38 credit service charges or interest, rebates, and expenses may affect the amount of the surplus or  
39 deficiency; and

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1 (D) provides a telephone number or mailing address from which additional  
2 information concerning the transaction is available.

3 (2) "Request" means a record:

4 (A) ~~[authenticated]~~ **signed** by a debtor or consumer obligor;

5 (B) requesting that the recipient provide an explanation; and

6 (C) sent after disposition of the collateral under Section 9-610.

7 (b) Explanation of calculation. In a consumer-goods transaction in which the debtor is  
8 entitled to a surplus or a consumer obligor is liable for a deficiency under Section 9-615, the secured party  
9 shall:

10 (1) send an explanation to the debtor or consumer obligor, as applicable, after the  
11 disposition and:

12 (A) before or when the secured party accounts to the debtor and pays any surplus or  
13 first makes ~~[written]~~ demand **in a record** on the consumer obligor after the disposition for payment of the  
14 deficiency; and

15 (B) within 14 days after receipt of a request; or

16 (2) in the case of a consumer obligor who is liable for a deficiency, within 14 days after  
17 receipt of a request, send to the consumer obligor a record waiving the secured party's right to a  
18 deficiency.

19 (c) Required Information. To comply with subsection (a)(1)(B), ~~[a writing]~~ **an explanation**  
20 must provide the following information in the following order:

21 (1) the aggregate amount of obligations secured by the security interest under which the  
22 disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge,  
23 an indication of that fact, calculated as of a specified date:

24 (A) if the secured party takes or receives possession of the collateral after default,  
25 not more than 35 days before the secured party takes or receives possession; or

26 (B) if the secured party takes or receives possession of the collateral before default  
27 or does not take possession of the collateral, not more than 35 days before the disposition;

28 (2) the amount of proceeds of the disposition;

29 (3) the aggregate amount of the obligations after deducting the amount of proceeds;

30 (4) the amount, in the aggregate or by type, and types of expenses, including expenses  
31 of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's  
32 fees secured by the collateral which are known to the secured party and relate to the current disposition;

33 (5) the amount, in the aggregate or by type, and types of credits, including rebates of  
34 interest or credit service charges, to which the obligor is known to be entitled and which are not reflected  
35 in the amount in paragraph (1); and

36 (6) the amount of the surplus or deficiency.

37 281:80 Nonliability and Limitation on Liability of Secured Party; Secured Transactions; UCC. Amend  
38 RSA 382-A:9-628 to read as follows:

39 382-A:9-628 Nonliability and Limitation on Liability of Secured Party; Liability of Secondary Obligor.

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1 (a) Limitation of liability of secured party for noncompliance with article. *Subject to*  
2 *subsection (f)*, unless a secured party knows that a person is a debtor or obligor, knows the identity of the  
3 person, and knows how to communicate with the person:

4 (1) the secured party is not liable to the person, or to a secured party or lienholder that  
5 has filed a financing statement against the person, for failure to comply with this article; and

6 (2) the secured party's failure to comply with this article does not affect the liability of the  
7 person for a deficiency.

8 (b) Limitation of liability based on status as secured party. *Subject to subsection (f)* a  
9 secured party is not liable because of its status as secured party:

10 (1) to a person that is a debtor or obligor, unless the secured party knows:

11 (A) that the person is a debtor or obligor;

12 (B) the identity of the person; and

13 (C) how to communicate with the person; or

14 (2) to a secured party or lienholder that has filed a financing statement against a person,  
15 unless the secured party knows:

16 (A) that the person is a debtor; and

17 (B) the identity of the person.

18 (c) Limitation of liability if reasonable belief that transaction not a consumer-goods  
19 transaction or consumer transaction. A secured party is not liable to any person, and a person's liability  
20 for a deficiency is not affected, because of any act or omission arising out of the secured party's  
21 reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that  
22 goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

23 (1) a debtor's representation concerning the purpose for which collateral was to be used,  
24 acquired, or held; or

25 (2) an obligor's representation concerning the purpose for which a secured obligation  
26 was incurred.

27 (d) Limitation of liability for statutory damages. A secured party is not liable to any person  
28 under Section 9-625(c)(2) for its failure to comply with Section 9-616.

29 (e) Limitation of multiple liability for statutory damages. A secured party is not liable under  
30 Section 9-625(c)(2) more than once with respect to any one secured obligation.

31 *(f) Notwithstanding subsection (b), a secured party owes a duty based on its status as a*  
32 *secured party to a person that is a debtor if, at the time the secured party obtains control of collateral that*  
33 *is a controllable account, controllable electronic record, or controllable payment intangible, the secured*  
34 *party knows that it will not be provided with the information specified in subsection (b)(1)(A), (B), or (C) by*  
35 *the collateral, a record attached to or logically associated with the collateral, or the system in which the*  
36 *collateral is recorded.*

37 281:81 New Articles; Uniform Commercial Code; Article 12 and 13; Controllable Electronic Records;  
38 Transition Provisions. Amend RSA 382-A by inserting after Article 9 the following new Articles:

39 ARTICLE 12

CONTROLLABLE ELECTRONIC RECORDS

1  
2       382-A:12-101 Short Title. This article may be cited as Uniform Commercial Code-Controllable  
3 Electronic Records.

4       382-A:12-102 Definitions.

5           (a) Article 12 definitions. In this article:

6               (1) "Controllable electronic record" means a record stored in an electronic medium that  
7 can be subjected to control under Section 12-105. The term does not include a controllable account, a  
8 controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel  
9 paper, an electronic document of title, electronic money, investment property, or a transferable record.

10              (2) "Qualifying purchaser" means a purchaser of a controllable electronic record or an  
11 interest in the controllable electronic record that obtains control of the controllable electronic record for  
12 value, in good faith, and without notice of a claim of a property right in the controllable electronic record.

13              (3) "Transferable record" means:

14                   (A) "Transferable record" as defined in the Electronic Signatures in Global and  
15 National Commerce Act, 15 U.S.C. Section 7001 et seq., as amended; or

16                   (B) "Transferable record" as defined in [cite to Uniform Electronic Transactions Act  
17 Section 16(a)].

18              (4) "Value" has the meaning provided in Section 3-303(a).

19           (b) Definitions in Article 9. The definitions in Article 9 of "account debtor", "controllable  
20 account", "controllable payment intangible", "chattel paper", "deposit account", "electronic money", and  
21 "investment property" apply to this article.

22       382-A:12-103 Relationship to Article 9 and Consumer Laws.

23           (a) Article 9 governs in case of conflict. If there is conflict between this article and Article 9,  
24 Article 9 governs.

25           (b) Applicable consumer law and other laws. A transaction subject to this article is subject to  
26 any applicable rule of law that establishes a different rule for consumers and [insert reference to (i) any  
27 other statute or regulation that regulates the rates, charges, agreements, and practices for loans, credit  
28 sales, or other extensions of credit and (ii) any consumer-protection statute or regulation].

29       382-A:12-104 Rights in Controllable Account, Controllable Electronic Record, and Controllable  
30 Payment Intangible.

31           (a) Applicability of section to controllable account and controllable payment intangible. This  
32 section applies to the acquisition and purchase of rights in a controllable account or controllable payment  
33 intangible, including the rights and benefits of a purchaser and a qualifying purchaser under subsections  
34 (d), (e), (g), and (h), in the same manner this section applies to a controllable electronic record.

35           (b) Control of controllable account and controllable payment intangible. For purposes of  
36 determining whether a purchaser of a controllable account or a controllable payment intangible is a  
37 qualifying purchaser, the purchaser obtains control of the account or payment intangible if it obtains  
38 control of the controllable electronic record that evidences the account or payment intangible.

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1 (c) Applicability of other law to acquisition of rights. Except as provided in this section, law  
2 other than this article determines whether a person acquires a right in a controllable electronic record and  
3 the right the person acquires.

4 (d) Shelter principle and purchase of limited interest. A purchaser of a controllable electronic  
5 record acquires all rights in the controllable electronic record that the transferor had or had power to  
6 transfer, except that a purchaser of a limited interest in a controllable electronic record acquires rights  
7 only to the extent of the interest purchased.

8 (e) Rights of qualifying purchaser. A qualifying purchaser acquires its rights in the  
9 controllable electronic record free of a claim of a property right in the controllable electronic record.

10 (f) Limitation of rights of qualifying purchaser in other property. Except as provided in  
11 subsections (a) and (e) for controllable accounts and controllable payment intangibles or law other than  
12 this article, a qualifying purchaser takes a right to payment, right to performance, or interest in property  
13 evidenced by the controllable electronic record subject to a claim of a property right in the right to  
14 payment, right to performance, or other interest in property.

15 (g) No-action protection for qualifying purchaser. An action may not be asserted against a  
16 qualifying purchaser based on both a purchase by the qualifying purchaser of a controllable electronic  
17 record and a claim of a property right in another controllable electronic record, whether framed in  
18 conversion, replevin, constructive trust, equitable lien, or other theory.

19 (h) Filing not notice. Filing of a financing statement under Article 9 is not notice of a claim of  
20 a property right in a controllable electronic record.

21 382-A:12-105 Control of Controllable Electronic Record.

22 (a) General rule: control of controllable electronic record. A person has control of a  
23 controllable electronic record if:

24 (1) the electronic record, a record attached to or logically associated with the electronic  
25 record, or a system in which the electronic record is recorded gives the person:

26 (A) the power to avail itself of substantially all the benefit from the electronic record;

27 and

28 (B) exclusive power, subject to subsection (b), to:

29 (i) prevent others from availing themselves of substantially all the benefit from  
30 the electronic record; and

31 (ii) transfer control of the electronic record to another person or cause another  
32 person to obtain control of another controllable electronic record as a result of the transfer of the  
33 electronic record; and

34 (2) the electronic record, a record attached to or logically associated with the electronic  
35 record, or a system in which the electronic record is recorded enables the person readily to identify itself  
36 in any way, including by name, identifying number, cryptographic key, office, or account number, as  
37 having the powers specified in paragraph (1).

38 (b) Presumption of exclusivity of certain powers. If a person has the powers that are  
39 specified in subsection (a)(1)(B), the powers are presumed to be exclusive.

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1 (c) Control through another person. A person has control of a controllable electronic record if  
2 another person, other than the transferor of an interest in the electronic record:

3 (1) has control of the electronic record and acknowledges that it has control on behalf of  
4 the person, or

5 (2) obtains control of the electronic record after having acknowledged that it will obtain  
6 control of the electronic record on behalf of the person.

7 (d) No requirement to acknowledge. A person that has control under this section is not  
8 required to acknowledge that it has control on behalf of another person.

9 (e) No duties or confirmation. If a person acknowledges that it has or will obtain control on  
10 behalf of another person, unless the person otherwise agrees or law other than this article otherwise  
11 provides, the person does not owe any duty to the other person and is not required to confirm the  
12 acknowledgment to another person.

13 (f) Meaning of exclusive. A power specified in subsection (a)(1) is exclusive, even if:

14 (1) the controllable electronic record, a record attached to or logically associated with the  
15 electronic record, or a system in which the electronic record is recorded limits the use of the electronic  
16 record or has a protocol programmed to cause a change, including a transfer or loss of control or a  
17 modification of benefits afforded by the electronic record; or

18 (2) the person shares the power with another person.

19 382-A:12-106 Discharge of Account Debtor on Controllable Account or Controllable Payment  
20 Intangible.

21 (a) Discharge of account debtor. An account debtor on a controllable account or controllable  
22 payment intangible may discharge its obligation by paying:

23 (1) the person having control of the controllable electronic record that evidences the  
24 controllable account or controllable payment intangible; or

25 (2) except as provided in subsection (b), a person that formerly had control of the  
26 controllable electronic record.

27 (b) Effect of notification. Subject to subsection (d), an account debtor may not discharge its  
28 obligation by paying a person that formerly had control of the controllable electronic record if the account  
29 debtor receives a notification that:

30 (1) is signed by a person that formerly had control or the person to which control was  
31 transferred;

32 (2) reasonably identifies the controllable account or controllable payment intangible;

33 (3) notifies the account debtor that control of the controllable electronic record that  
34 evidences the controllable account or controllable payment intangible was transferred;

35 (4) identifies the transferee, in any reasonable way, including by name, identifying  
36 number, cryptographic key, office, or account number; and

37 (5) provides a commercially reasonable method by which the account debtor is to pay the  
38 transferee.

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1 (c) Discharge following effective notification. After receipt of a notification that complies with  
2 subsection (b), the account debtor may discharge its obligation by paying in accordance with the  
3 notification and may not discharge the obligation by paying a person that formerly had control.

4 (d) When notification ineffective. Subject to subsection (h), notification is ineffective under  
5 subsection (b):

6 (1) unless, before the notification is sent, an account debtor and the person that, at that  
7 time, had control of the controllable electronic record that evidences the controllable account or  
8 controllable payment intangible agree in a signed record to a commercially reasonable method by which a  
9 person may furnish reasonable proof that control has been transferred;

10 (2) to the extent an agreement between an account debtor and seller of a payment  
11 intangible limits the account debtor's duty to pay a person other than the seller and the limitation is  
12 effective under law other than this article; or

13 (3) at the option of an account debtor, if the notification notifies the account debtor to:

14 (A) divide a payment;

15 (B) make less than the full amount of an installment or other periodic payment; or

16 (C) pay any part of a payment by more than one method or to more than one person.

17 (e) Proof of transfer of control. Subject to subsection (h), if requested by the account debtor,  
18 the person giving the notification seasonably shall furnish reasonable proof, using the agreed method,  
19 that control of the controllable electronic record has been transferred. Unless the person complies with  
20 the request, the account debtor may discharge its obligation by paying a person that formerly had control,  
21 even if the account debtor has received a notification under subsection (b).

22 (f) What constitutes reasonable proof. A person furnishes reasonable proof that control has  
23 been transferred if the person demonstrates, using the agreed method, that the transferee has the power  
24 to:

25 (1) avail itself of substantially all the benefit from the controllable electronic record;

26 (2) prevent others from availing themselves of substantially all the benefit from the  
27 controllable electronic record; and

28 (3) transfer the powers mentioned in paragraphs (1) and (2) to another person.

29 (g) Rights not waivable. Subject to subsection (h), an account debtor may not waive or vary  
30 its rights under subsections (d)(1) and (e) or its option under subsection (d)(3).

31 (h) Rule for individual under other law. This section is subject to law other than this article  
32 which establishes a different rule for an account debtor who is an individual and who incurred the  
33 obligation primarily for personal, family, or household purposes.

34 382-A: 12-107 Governing Law.

35 (a) Governing law: general rule. Except as provided in subsection (b), the local law of a  
36 controllable electronic record's jurisdiction governs a matter covered by this article.

37 (b) Governing law: Section 12-106. The local law of the controllable electronic record's  
38 jurisdiction for a controllable electronic record that evidences a controllable account or controllable

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1 payment intangible governs a matter covered by Section 12-106 unless an effective agreement  
2 determines that the local law of another jurisdiction governs.

3 (c) Controllable electronic record's jurisdiction. The following rules determine a controllable  
4 electronic record's jurisdiction under this section:

5 (1) If the controllable electronic record, or a record attached to or logically associated  
6 with the controllable electronic record which is readily available for review, expressly provides that a  
7 particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this article or this  
8 chapter, that jurisdiction is the controllable electronic record's jurisdiction.

9 (2) If paragraph (1) does not apply and the rules of the system in which the controllable  
10 electronic record is recorded are readily available for review and expressly provide that a particular  
11 jurisdiction is the controllable electronic record's jurisdiction for purposes of this article or the [Uniform  
12 Commercial Code], that jurisdiction is the controllable electronic record's jurisdiction.

13 (3) If paragraphs (1) and (2) do not apply and the controllable electronic record, or a  
14 record attached to or logically associated with the controllable electronic record which is readily available  
15 for review, expressly provides that the controllable electronic record is governed by the law of a particular  
16 jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

17 (4) If paragraphs (1) through (3) do not apply and the rules of the system in which the  
18 controllable electronic record is recorded are readily available for review and expressly provide that the  
19 controllable electronic record or the system is governed by the law of a particular jurisdiction, that  
20 jurisdiction is the controllable electronic record's jurisdiction.

21 (5) If paragraphs (1) through (4) do not apply, the controllable electronic record's  
22 jurisdiction is the District of Columbia.

23 (d) Applicability of Article 12. If subsection (c)(5) applies and Article 12 is not in effect in the  
24 District of Columbia without material modification, the governing law for a matter covered by this article is  
25 the law of the District of Columbia as though Article 12 were in effect in the District of Columbia without  
26 material modification. In this section, "Article 12" means Uniform Commercial Code—Controllable  
27 Electronic Records (with Conforming Amendments to Articles 1 and 9), 2022 Official Text.

28 (e) Relation of transaction to controllable electronic record's jurisdiction not necessary.  
29 Subsections (b) through (d) apply even if a transaction does not bear any relation to the controllable  
30 electronic record's jurisdiction.

31 (f) Rights of purchasers determined at time of purchase. The rights acquired by a purchaser  
32 or a qualifying purchaser under Section 12-104 are governed by the law applicable under this section at  
33 the time of purchase.

34 **ARTICLE 13**

35 **ADDITIONAL TRANSITION PROVISIONS FOR ARTICLES 9 AND 12**

36 **382-A:13-301 Savings Clause.**

37 (a) Pre-effective-date transactions, liens, or interests. Except as otherwise provided in this  
38 part, Article 9 and Article 12 apply to a transaction, lien, or other interest in property, even if the  
39 transaction, lien, or interest was entered into, created, or acquired before the effective date of this Article.

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1 (b) Continuing validity. Except as otherwise provided in subsection (c) and Sections 13-302  
2 through 13-306:

3 (1) a transaction, lien, or interest in property that was not governed by this chapter and  
4 was validly entered into, created, or transferred before the effective date of this Article, and would be  
5 subject to Article 9 as amended or Article 12 if it had been entered into, created, or transferred after the  
6 effective date of this Article, and the rights, duties, and interests flowing from the transaction, lien, or  
7 interest in property remain valid after the effective date of this Article; and

8 (2) the transaction, lien, or interest in property may be terminated, completed,  
9 consummated, and enforced as required or permitted by this act or by the law that otherwise would apply  
10 if this act had not taken effect.

11 (c) Pre-effective-date proceedings. This Article does not affect an action, case, or  
12 proceeding commenced before the effective date of this Article.

13 382-A:13-302 Security Interest Perfected Before Effective Date.

14 (a) Continuing perfection: perfection requirements satisfied. A security interest that is  
15 enforceable and perfected immediately before the effective date of this Article is a perfected security  
16 interest under this Article if, on the effective date of this Article, the applicable requirements for  
17 enforceability and perfection under this Article are satisfied without further action.

18 (b) Continuing perfection: perfection requirements not satisfied. If, immediately before the  
19 effective date of this Article, a security interest is enforceable and perfected, but the applicable  
20 requirements for enforceability or perfection under this Article, are not satisfied on the effective date of this  
21 Article, the security interest:

22 (1) is a perfected security interest until the earlier of the time perfection would have  
23 ceased under the law in effect immediately before the effective date of this Article or January 1, 2025;

24 (2) remains enforceable thereafter only if the security interest satisfies the requirements  
25 for enforceability under Section 9-203 before January 1, 2025; and

26 (3) remains perfected thereafter only if the applicable requirements for perfection under  
27 this Article are satisfied before January 1, 2025.

28 382-A:13-303 Security Interest Unperfected Before Effective Date. A security interest that is  
29 enforceable immediately before the effective date of this Article but which would be unperfected at that  
30 time:

31 (1) remains an enforceable security interest until January 1, 2025;

32 (2) remains enforceable thereafter if the security interest becomes enforceable under  
33 Section 9-203 on the effective date of this Article or before January 1, 2025; and

34 (3) becomes perfected:

35 (A) without further action, on the effective date of this Article if the applicable  
36 requirements for perfection under this Article are satisfied before or at that time; or

37 (B) when the applicable requirements for perfection are satisfied if the requirements  
38 are satisfied after that time.

39 382-A:13-304 Effectiveness of Actions Taken Before Effective Date.

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1           (a) Pre-effective-date action; attachment and perfection before adjustment date. If action,  
2 other than the filing of a financing statement, is taken before the effective date of this Article and the  
3 action would have resulted in perfection of the security interest had the security interest become  
4 enforceable before the effective date of this Article, the action is effective to perfect a security interest that  
5 attaches under this Article before January 1, 2025. An attached security interest becomes unperfected on  
6 January 1, 2025 unless the security interest becomes a perfected security interest under this Article  
7 before January 1, 2025.

8           (b) Pre-effective-date filing. The filing of a financing statement before the effective date of  
9 this Article is effective to perfect a security interest on the effective date of this Article to the extent the  
10 filing would satisfy the applicable requirements for perfection under this Article.

11           (c) Pre-effective-date enforceability actions. The taking of an action before the effective date  
12 of this Article is sufficient for the enforceability of a security interest on the effective date of this Article if  
13 the action would satisfy the applicable requirements for enforceability under this Article.

14       382-A:13-305 Priority.

15           (a) Determination of priority. Subject to subsections (b) and (c), this Article determines the  
16 priority of conflicting claims to collateral.

17           (b) Established priorities. Subject to subsection (c), if the relative priorities of claims to  
18 collateral were established before the effective date of this Article, Article 9 determines priority.

19           (c) Determination of certain priorities on adjustment date. On January 1, 2025, to the extent  
20 that the relative priorities determined by this Article modify the relative priorities established before the  
21 effective date of this Article, the relative priorities of claims to Article 12 property and electronic money  
22 which were established before the effective date of this Article cease to apply.

23       382-A:13-306 Priority of Claims When Priority Rules of Article 9 Do Not Apply.

24           (a) Determination of priority. Subject to subsections (b) and (c), Article 12 determines the  
25 priority of conflicting claims to Article 12 property when the priority rules of Article 9 do not apply.

26           (b) Established priorities. Subject to subsection (c), when the priority rules of Article 9 do not  
27 apply and the relative priorities of claims to Article 12 property were established before the effective date  
28 of this Article, law other than Article 12 determines priority.

29           (c) Determination of certain priorities on adjustment date. When the priority rules of Article 9  
30 do not apply, to the extent that the relative priorities determined by this Article modify the relative priorities  
31 established before the effective date of this Article, on January 1, 2025 the relative priorities of claims to  
32 Article 12 property which were established before the effective date of this Article cease to apply.

33       281:82 New Paragraph; Uniform Securities Act; Definitions; Open Blockchain Token. Amend RSA  
34 421-B:1-102 by inserting after paragraph (35) the following new paragraph:

35           (35-a) "Open blockchain token" means a digital unit which is:

36               (A) Created:

37                   (i) In response to the verification or collection of a specified number of  
38 transactions relating to a digital ledger or database;

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1 (ii) By deploying computer code to a blockchain network that allows for the  
2 creation of digital tokens or other units; or

3 (iii) Using any combination of the methods specified in subparagraphs (i) and (ii)  
4 of this paragraph;

5 (B) Recorded in a digital ledger or database which is chronological, consensus-  
6 based, decentralized and mathematically verified in nature, especially relating to the supply of units and  
7 their distribution; and

8 (C) Capable of being traded or transferred between persons without an intermediary  
9 or custodian of value.

10 281:83 New Paragraph; Uniform Securities Act; Exempt Transaction; Open Blockchain Token.  
11 Amend RSA 421-B:2-202 by inserting after paragraph (24) the following new paragraph:

12 (25) A purchase or sale of an open blockchain token if all of the following are met:

13 (A) The issuer or seller of the token, or the registered agent of the developer or  
14 seller, files a notice of intent with the secretary of state, as specified in subsection (D) of this section;

15 (B) The purpose of the token is for a consumptive purpose, which shall only be  
16 exchangeable for, or provided for the receipt of, goods, services or content, including rights of access to  
17 goods, services or content; and

18 (C) The issuer or seller of the token did not sell the token to the initial buyer as a  
19 financial investment. For purposes of this subsection, a developer seller of the token will be deemed not  
20 to have sold the token to the initial buyer as a financial investment if:

21 (i) The issuer or seller did not market the token as a financial investment; and

22 (ii) At least one of the following is true:

23 (a) The issuer or seller of the token reasonably believed that it sold the token to the initial  
24 buyer for a consumptive purpose;

25 (b) The token has a consumptive purpose that is available at the time of sale and can be  
26 used at or near the time of sale for use for a consumptive purpose;

27 (c) If the token does not have a consumptive purpose available at the time of sale, the initial  
28 buyer of the token is prevented from reselling the token until the token is available for use for a  
29 consumptive purpose; or

30 (d) The issuer or seller takes other reasonable precautions to prevent buyers from  
31 purchasing the token as a financial investment.

32 (D) The issuer, seller or person who facilitates the exchange of an open blockchain  
33 token, or the registered agent of the applicable person, files a notice of intent with the secretary of state  
34 prior to offering or selling the tokens in this state. The notice of intent shall contain the name of the person  
35 acting as an issuer, seller or facilitator, the contact information of the person or the registered agent of the  
36 person, and a statement that any marketing or advertising materials, including web sites offering or selling  
37 open blockchain tokens, will contain a disclosure that the tokens are not registered as securities pursuant  
38 to a transaction exemption under RSA 421-B, the New Hampshire Uniform Securities Act. The notice  
39 shall also specify whether the person will be acting as an issuer, seller or facilitator. A form shall be made

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1 available by the office of the secretary of state on its Internet website for this purpose. The secretary of  
2 state shall charge a fee of \$100 per filing.

3 281:84 New Subparagraph; Uniform Securities Act; Broker-Dealer Registration Requirements and  
4 Exemption. Amend RSA 421-B:4-401(b) by inserting after subparagraph (2) the following new  
5 subparagraph:

6 (3)(A) Except as otherwise provided by RSA 421-B:5-511, a person who exclusively  
7 facilitates the exchange of an open blockchain token if all of the following are met:

8 (i) The person, or the registered agent of the person, files a notice of intent with  
9 the secretary of state, as specified in RSA 421-B:2-202(26)(d);

10 (ii) The person has a reasonable and good faith belief that a token subject to  
11 exchange conforms to the requirements of paragraphs RSA 421-B:2-202(25)(a)-(c); and

12 (iii) The person takes reasonably prompt action to terminate the exchange of a  
13 token that does not conform to the requirements of this subsection.

14 281:85 New Section; Uniform Securities Act; Liability of Issuers, Seller, and Others Who Facilitate  
15 Exchange of Open Blockchain Tokens. Amend RSA 421-B by inserting after section 5-510 the following  
16 new section:

17 421-B:5-511 Liability of Issuers, Sellers, and Others Who Facilitate Exchange of Open Blockchain  
18 Tokens. Notwithstanding any other provision of law, an issuer, seller, or a person who facilitates the  
19 exchange of an open blockchain token is subject to the provisions of RSA 421-B:5-501 through RSA 421-  
20 B:5-503 and RSA 421-B:5-505 through RSA 421-B:5-510 only to the extent necessary to carry out those  
21 sections. The secretary of state shall have the authority provided under RSA 421-B:6-601 through RSA  
22 421-B:6-613 to determine compliance with the provisions of this section, including whether a person  
23 qualifies for the exemptions set forth in this section. The evidentiary burdens specified in RSA 421-B:5-  
24 503 shall apply in any proceeding initiated by the secretary of state pursuant to this subsection.

25 281:86 New Subparagraphs; Department of Administrative Services; Division of Procurement and  
26 Support Services; Structural Steel Defined. Amend RSA 21-I:11, II by inserting after subparagraph (f) the  
27 following new subparagraphs:

28 (g) "Structural steel" shall mean a product consisting of the elements of the structural frame  
29 that are shown and sized in the structural design documents, essential to support the design loads as  
30 defined in the 2016 American Institute of Steel Construction (AISC) code of standard practice for steel  
31 buildings and bridges 303-16.

32 (h) "Domestic fabricated structural steel" shall mean an iron or steel product where all  
33 manufacturing must take place in the United States, from the initial melting stage, through fabrication, and  
34 application of coatings, except metallurgical processes involving the refinement of steel additives.

35 (i) "Permanently incorporated product" shall mean a product that is required to remain in  
36 place at the end of the project contract, in a fixed location, affixed to the public work to which it was  
37 incorporated and shall not mean a product that is capable of being moved from one location to another.

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1           (j) "Fabrication" shall mean all manufacturing of iron or steel products, from the initial melting  
2 stage, through fabrication and application of coatings, except metallurgical processes involving the  
3 refinement of steel additives.

4           281:87 New Paragraph; Department of Administrative Services; Division of Procurement and Support  
5 Services; Established Preference of American Made Materials in State Contracts. Amend RSA 21-I:11 by  
6 inserting after paragraph II the following new paragraph:

7           III.(a) Notwithstanding any law to the contrary relating to procurement and to the extent permitted  
8 by federal law, any contract for construction, reconstruction, alteration, repair, improvement, or  
9 maintenance of a public building or public works with the state as a party shall contain a provision that for  
10 the permanently incorporated iron, structural steel, and fabricated structural steel used or supplied in the  
11 performance of the contract or any subcontract, strong consideration and preference shall be given for  
12 iron or steel fabricated in the United States. If the competitive bidding process results in all qualifying  
13 factors being equal, the contract shall be awarded to the contractor offering steel fabricated in the United  
14 States. In instances where qualifying factors are equal, absent of low price, and using domesticated  
15 structural steel, the state may reserve the option to purchase steel fabricated in the United States.

16           (b) If a court or federal or state agency has determined that any person intentionally affixed a  
17 "Made in America" label to structural steel under this paragraph that was not made in the United States or  
18 otherwise falsely represented that structural steel under this paragraph was produced in the United  
19 States, the department of administrative services shall withhold contract payment until the structural steel  
20 can be replaced, or the noncompliance of this paragraph is otherwise remedied. Failure to comply with  
21 and/or produce a satisfactory remedy to the state may result in debarment proceedings under RSA 21-  
22 I:11-c, III.

23           (c) If any provision of this paragraph or application thereof is held to be invalid or in conflict  
24 with any applicable laws, this invalidity or conflict shall not affect the other provisions or applications which  
25 shall be given affect without the invalid provisions or applications, and to this end, the provisions and  
26 applications of this paragraph are severable.

27           281:88 Effective Date. This act shall take effect January 1, 2023.

Approved: June 28, 2022  
Effective Date: January 01, 2023

