

**CS FOR HOUSE BILL NO. 102(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/18/09

Referred: Rules

Sponsor(s): THE HOUSE LABOR AND COMMERCE COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the Uniform Commercial Code, to the general provisions of the  
2 Uniform Commercial Code, to documents of title under the Uniform Commercial Code,  
3 to the Uniform Electronic Transactions Act, to lease-purchases of personal property, to  
4 the contractual duty to act fairly and in good faith, and to carrier, warehouse, and  
5 animal care liens; amending Rules 403 and 902, Alaska Rules of Evidence; and  
6 providing for an effective date."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 \* **Section 1.** AS 09.70 is amended by adding a new section to read:

9 **Sec. 09.70.030. Good faith.** The parties to every contract have a duty to act  
10 fairly and in good faith in the performance and enforcement of the contract.

11 \* **Sec. 2.** AS 09.80.010(b) is amended to read:

12 (b) This chapter does not apply to a transaction to the extent it is governed by  
13 (1) a law governing the creation and execution of wills, codicils, or

1           testamentary trusts;

2                           (2) the Uniform Commercial Code other than AS 45.01.306, AS 45.02,  
3                           AS 45.12, and, to the extent allowed by AS 45.07.113(c), AS 45.07 [AS 45.01.107,  
4                           45.01.206, AS 45.02, AND AS 45.12].

5       \* **Sec. 3.** AS 09.80.130(c) is amended to read:

6                           (c) Except as otherwise agreed, a person having control of a transferable  
7                           record is the holder, as defined in AS 45.01.211(b) [AS 45.01.201], of the transferable  
8                           record and has the same rights and defenses as a holder of an equivalent record or  
9                           writing under the Uniform Commercial Code, including, if the applicable statutory  
10                          requirements under AS 45.03.302(a), AS 45.07.501, or AS 45.29.308 are satisfied, the  
11                          rights and defenses of a holder in due course, a holder to which a negotiable document  
12                          of title has been duly negotiated, or a purchaser, respectively. Delivery, possession,  
13                          and endorsement are not required to obtain or exercise a right [ANY OF THE  
14                          RIGHTS] under this subsection.

15       \* **Sec. 4.** AS 34.35.220 is amended to read:

16                          **Sec. 34.35.220. Persons entitled to carrier, warehouse, and animal care**  
17                          **[LIVESTOCK] liens.** The following persons [SHALL] have liens on [UPON]  
18                          personal property for their just and reasonable charges for the labor, care, and attention  
19                          provided [BESTOWED] and the food furnished, and may retain possession of the  
20                          property until the charges are paid:

21                                   (1) a person who is a common carrier, or who, at the request of the  
22                                   owner or lawful possessor of personal property, [CARRIES, CONVEYS, OR]  
23                                   transports the property from one place to another;

24                                   (2) a person who safely keeps or stores [GRAIN, WARES,  
25                                   MERCHANDISE, AND] personal property at the request of the owner or lawful  
26                                   possessor of the property; and

27                                   (3) a person who pastures or feeds animals [HORSES, CATTLE,  
28                                   HOGS, SHEEP, OR OTHER LIVESTOCK], or bestows labor, care, or attention on  
29                                   [UPON] the animals [LIVESTOCK] at the request of the owner or lawful possessor  
30                                   of the animals [LIVESTOCK].

31       \* **Sec. 5.** AS 34.35.225(b) is amended to read:

1 (b) Nothing in this section may be construed to authorize a **person**  
 2 [WAREHOUSEMAN] to sell more of the **property** [WOOL, WHEAT, OATS, OR  
 3 OTHER GRAIN] than is sufficient to pay charges due the **person**  
 4 [WAREHOUSEMAN] on the **property** [WOOL, WHEAT, OATS, OR OTHER  
 5 GRAIN].

6 \* **Sec. 6.** AS 34.35.225(c) is amended to read:

7 (c) A **person** [WAREHOUSEMAN] who sells, loans, or otherwise disposes  
 8 of **property** [THE WOOL, WHEAT, OATS, OR GRAIN] contrary to the provisions  
 9 of AS 34.35.220 and **this section** [34.35.225] without the consent of the owner of the  
 10 property shall, for each offense, forfeit and pay to the owner a sum equal to the market  
 11 value of the property, and 50 percent of the market value in addition as a penalty. **In**  
 12 **this subsection, "market value" means** [MARKET VALUE IS] the price the  
 13 **property** [ARTICLE] bears at the time the owner makes demand on the **person**  
 14 [WAREHOUSEMAN] for it.

15 \* **Sec. 7.** AS 34.35.225 is amended by adding a new subsection to read:

16 (d) The remedies available under this section are in addition to any remedies  
 17 available under AS 45.07.210.

18 \* **Sec. 8.** AS 45.01 is amended by adding new sections to article 1 to read:

19 **Sec. 45.01.111. Short titles.** (a) AS 45.01 - AS 45.08, AS 45.12, AS 45.14,  
 20 and AS 45.29 may be cited as the Uniform Commercial Code.

21 (b) This chapter may be cited as the Uniform Commercial Code - General  
 22 Provisions.

23 **Sec. 45.01.112. Scope of chapter.** This chapter applies to a transaction to the  
 24 extent that the transaction is governed by another chapter of the code.

25 **Sec. 45.01.113. Construction of code to promote its purposes and policies;**  
 26 **applicability of supplemental principles of law.** (a) The code shall be liberally  
 27 construed and applied to promote the code's underlying purposes and policies, which  
 28 are to

29 (1) simplify, clarify, and modernize the law governing commercial  
 30 transactions;

31 (2) permit the continued expansion of commercial practices through

1 custom, usage, and agreement of the parties; and

2 (3) make uniform the law among the various jurisdictions.

3 (b) Unless displaced by the particular provisions of the code, the principles of  
4 law and equity, including the law merchant and the law relative to capacity to contract,  
5 principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake,  
6 bankruptcy, and other validating or invalidating cause, supplement the code's  
7 provisions.

8 **Sec. 45.01.114. Construction against implied repeal.** The code being a  
9 general act intended as a unified coverage of its subject matter, no part of it may be  
10 considered to be impliedly repealed by subsequent legislation if that construction can  
11 reasonably be avoided.

12 **Sec. 45.01.115. Severability.** If a provision or clause of the code or application  
13 of the clause or provision to a person or circumstances is held invalid, the invalidity  
14 does not affect other provisions or applications of the code that can be given effect  
15 without the invalid provision or application, and to this end the provisions of the code  
16 are severable.

17 **Sec. 45.01.116. Use of singular and plural; gender.** In the code, the rules of  
18 construction in AS 01.10.050(b) and (c) apply, unless the statutory context otherwise  
19 requires.

20 **Sec. 45.01.117. Section captions.** Notwithstanding AS 01.05.006 and  
21 01.05.031(b)(2), section captions are part of the code.

22 **Sec. 45.01.118. Relation to Electronic Signatures in Global and National**  
23 **Commerce Act.** The code modifies, limits, and supersedes 15 U.S.C. 7001 - 7031  
24 (Electronic Signatures in Global and National Commerce Act) but does not modify,  
25 limit, or supersede 15 U.S.C. 7001(c) or authorize electronic delivery of a notice  
26 described in 15 U.S.C. 7003(b).

27 \* **Sec. 9.** AS 45.01 is amended by adding new sections to read:

28 **Sec. 45.01.211. General definitions.** (a) Unless the context otherwise requires,  
29 words or phrases defined in this section, or in the additional definitions contained in  
30 other chapters of the code that apply to particular chapters or articles of the code, have  
31 the meanings stated.

1 (b) Subject to definitions contained in other chapters of the code that apply to  
2 particular chapters or articles of the code,

3 (1) "action," in the sense of a judicial proceeding, includes  
4 recoupment, counterclaim, set-off, suit in equity, and another proceeding in which  
5 rights are determined;

6 (2) "aggrieved party" means a party entitled to pursue a remedy;

7 (3) "agreement," as distinguished from "contract," means the bargain  
8 of the parties in fact, as found in their language or inferred from other circumstances,  
9 including course of performance, course of dealing, or usage of trade as provided in  
10 AS 45.01.303;

11 (4) "bank" means a person engaged in the business of banking and  
12 includes a savings bank, savings and loan association, credit union, and trust company;

13 (5) "bearer" means a person in control of a negotiable electronic  
14 document of title or a person in possession of a negotiable instrument, negotiable  
15 tangible document of title, or certificated security that is payable to bearer or endorsed  
16 in blank;

17 (6) "bill of lading" means a document of title evidencing the receipt of  
18 goods for shipment issued by a person engaged in the business of directly or indirectly  
19 transporting or forwarding goods; "bill of lading" does not include a warehouse  
20 receipt;

21 (7) "branch" includes a separately incorporated foreign branch of a  
22 bank;

23 (8) "burden of establishing" a fact means the burden of persuading the  
24 trier of fact that the existence of the fact is more probable than its nonexistence;

25 (9) "buyer in ordinary course of business" means a person who buys  
26 goods in good faith, without knowledge that the sale violates the rights of another  
27 person in the goods, and in the ordinary course from a person, other than a  
28 pawnbroker, in the business of selling goods of that kind; a person buys goods in the  
29 ordinary course if the sale to the person comports with the usual or customary  
30 practices in the kind of business in which the seller is engaged or with the seller's own  
31 usual or customary practices; a person who sells oil, gas, or other minerals at the

1 wellhead or minehead is a person in the business of selling goods of that kind; a buyer  
2 in ordinary course of business may buy for cash, by exchange of other property, or on  
3 secured or unsecured credit, and may acquire goods or documents of title under a  
4 preexisting contract for sale; only a buyer who takes possession of the goods or has a  
5 right to recover the goods from the seller under AS 45.02 may be a buyer in ordinary  
6 course of business; "buyer in ordinary course of business" does not include a person  
7 who acquires goods in a transfer in bulk or as security for or in total or partial  
8 satisfaction of a money debt;

9 (10) "code" means AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and  
10 AS 45.29;

11 (11) "conspicuous," with reference to a term, means written, displayed,  
12 or presented in a way that a reasonable person against whom it is to operate ought to  
13 have noticed it; whether a term is "conspicuous" or not is a decision for the court;  
14 conspicuous terms include

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

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

22 (12) "consumer" means an individual who enters into a transaction  
23 primarily for personal, family, or household purposes;

24 (13) "contract," as distinguished from "agreement," means the total  
25 legal obligation that results from the parties' agreement as determined by the code as  
26 supplemented by other applicable laws;

27 (14) "creditor" includes a general creditor, a secured creditor, a lien  
28 creditor, and a representative of creditors, including an assignee for the benefit of  
29 creditors, a trustee in bankruptcy, a receiver in equity, and an executor or  
30 administrator of an insolvent debtor's or assignor's estate;

31 (15) "defendant" includes a person in the position of defendant in a

1 counterclaim, cross-claim, or third-party claim;

2 (16) "delivery," with respect to an electronic document of title, means  
3 voluntary transfer of control and, with respect to an instrument, a tangible document of  
4 title, or chattel paper, means voluntary transfer of possession;

5 (17) "document of title"

6 (A) means a record that

7 (i) in the regular course of business or financing, is  
8 treated as adequately evidencing that the person in possession or  
9 control of the record is entitled to receive, control, hold, and dispose of  
10 the record and the goods the record covers; and

11 (ii) purports to be issued by or addressed to a bailee and  
12 to cover goods in the bailee's possession that are either identified or are  
13 fungible portions of an identified mass;

14 (B) includes a bill of lading, transport document, dock warrant,  
15 dock receipt, warehouse receipt, and order for delivery of goods;

16 (18) "electronic document of title" means a document of title  
17 evidenced by a record consisting of information stored in an electronic medium;

18 (19) "fault" means a default, breach, or wrongful act or omission;

19 (20) "fungible goods" means goods

20 (A) of which a unit, by nature or usage of trade, is the  
21 equivalent of another like unit; or

22 (B) that, by agreement, are treated as equivalent;

23 (21) "genuine" means free of forgery or counterfeiting;

24 (22) "good faith," except as otherwise provided in AS 45.05, means  
25 honesty in fact and the observance of reasonable commercial standards of fair dealing;

26 (23) "holder" means the person in

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

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

1 (C) control of a negotiable electronic document of title;

2 (24) "insolvency proceeding" includes an assignment for the benefit of  
3 creditors or another proceeding intended to liquidate or rehabilitate the estate of the  
4 person involved;

5 (25) "insolvent" means

6 (A) having generally ceased to pay debts in the ordinary course  
7 of business other than as a result of bona fide dispute;

8 (B) being unable to pay debts as they become due; or

9 (C) being insolvent within the meaning of federal bankruptcy  
10 law;

11 (26) "money" means a medium of exchange currently authorized or  
12 adopted by a domestic or foreign government, and includes a monetary unit of account  
13 established by an intergovernmental organization or by agreement between two or  
14 more countries;

15 (27) "organization" means a person other than an individual;

16 (28) "party," as distinguished from "third party," means a person who  
17 has engaged in a transaction or made an agreement subject to the code;

18 (29) "person" means an individual, corporation, business trust, estate,  
19 trust, partnership, limited liability company, association, joint venture, government,  
20 governmental subdivision, agency, or instrumentality, public corporation, or another  
21 legal or commercial entity;

22 (30) "present value" means the amount as of a date certain of one or  
23 more sums payable in the future, discounted to the date certain

24 (A) by use of an interest rate that is specified by the parties if  
25 that rate is not manifestly unreasonable at the time the transaction is entered  
26 into; or

27 (B) if an interest rate is not determined under (A) of this  
28 paragraph, by use of a commercially reasonable rate that takes into account the  
29 facts and circumstances at the time the transaction is entered into;

30 (31) "purchase" means taking by sale, lease, discount, negotiation,  
31 mortgage, pledge, lien, security interest, issue or reissue, gift, or another voluntary

1 transaction creating an interest in property;

2 (32) "purchaser" means a person who takes by purchase;

3 (33) "record" means information that is inscribed on a tangible  
4 medium or that is stored in an electronic or other medium and is retrievable in  
5 perceivable form;

6 (34) "remedy" means a remedial right to which an aggrieved party is  
7 entitled with or without resort to a tribunal;

8 (35) "representative" means a person empowered to act for another,  
9 including an agent, an officer of a corporation or association, and a trustee, executor,  
10 or administrator of an estate;

11 (36) "right" includes remedy;

12 (37) "security interest" means an interest in personal property or  
13 fixtures that secures payment or performance of an obligation; "security interest"  
14 includes an interest of a consignor and a buyer of accounts, chattel paper, a payment  
15 intangible, or a promissory note in a transaction that is subject to AS 45.29; "security  
16 interest" does not include the special property interest of a buyer of goods on  
17 identification of those goods to a contract for sale under AS 45.02.401, but a buyer  
18 may also acquire a security interest by complying with AS 45.29; except as otherwise  
19 provided in AS 45.02.505, the right of a seller or lessor of goods under AS 45.02 or  
20 AS 45.12 to retain or acquire possession of the goods is not a security interest, but a  
21 seller or lessor may also acquire a security interest by complying with AS 45.29; the  
22 retention or reservation of title by a seller of goods notwithstanding shipment or  
23 delivery to the buyer under AS 45.02.401 is limited in effect to a reservation of a  
24 security interest; whether a transaction in the form of a lease creates a security interest  
25 is determined under AS 45.01.213;

26 (38) "send," in connection with a writing, record, or notice, means

27 (A) to deposit in the mail or deliver for transmission by a usual  
28 means of communication with postage or cost of transmission provided for and  
29 properly addressed and, in the case of an instrument, to an address specified on  
30 the instrument or otherwise agreed on, or, if an address is not specified on the  
31 instrument or otherwise agreed on, to an address reasonable under the

1 circumstances; or

2 (B) in another way to cause to be received a record or notice  
3 within the time it would have arrived if properly sent;

4 (39) "signed" includes using a symbol executed or adopted with  
5 present intention to adopt or accept a writing;

6 (40) "state" means a state of the United States, the District of  
7 Columbia, Puerto Rico, the United States Virgin Islands, or a territory or insular  
8 possession subject to the jurisdiction of the United States;

9 (41) "surety" includes a guarantor or other secondary obligor;

10 (42) "tangible document of title" means a document of title evidenced  
11 by a record consisting of information that is inscribed on a tangible medium;

12 (43) "term" means a portion of an agreement that relates to a particular  
13 matter;

14 (44) "unauthorized signature" means a signature made without actual,  
15 implied, or apparent authority, and includes a forgery;

16 (45) "warehouse receipt" means a document of title issued by a  
17 warehouse; in this paragraph, "warehouse" has the meaning given in AS 45.07.112(a);

18 (46) "writing" includes printing, typewriting, or another intentional  
19 reduction to tangible form; "written" has a corresponding meaning.

20 **Sec. 45.01.212. Notice; knowledge.** (a) Subject to (f) of this section, a person  
21 has "notice" of a fact if the person

22 (1) has actual knowledge of it;

23 (2) has received a notice or notification of it; or

24 (3) from all the facts and circumstances known to the person at the  
25 time in question, has reason to know that it exists.

26 (b) "Knowledge" means actual knowledge. "Knows" has a corresponding  
27 meaning.

28 (c) "Discover," "learn," or words of similar import refer to knowledge rather  
29 than to reason to know.

30 (d) A person "notifies" or "gives" a notice or notification to another person by  
31 taking those steps that may be reasonably required to inform the other person in

1 ordinary course, whether or not the other person actually comes to know of it.

2 (e) Subject to (f) of this section, a person "receives" a notice or notification  
3 when it

4 (1) comes to that person's attention; or

5 (2) is duly delivered in a form reasonable under the circumstances at  
6 the place of business through which the contract was made or at another location held  
7 out by that person as the place for receipt of that type of communication.

8 (f) Notice, knowledge, or a notice or notification received by an organization  
9 is effective for a particular transaction from the time it is brought to the attention of  
10 the individual conducting that transaction and, in any event, from the time it would  
11 have been brought to the individual's attention if the organization had exercised due  
12 diligence. An organization exercises due diligence if it maintains reasonable routines  
13 for communicating significant information to the person conducting the transaction  
14 and there is reasonable compliance with the routines. Due diligence does not require  
15 an individual acting for the organization to communicate information unless the  
16 communication is part of the individual's regular duties or the individual has reason to  
17 know of the transaction and that the transaction would be materially affected by the  
18 information.

19 **Sec. 45.01.213. Lease distinguished from security interest.** (a) Whether a  
20 transaction in the form of a lease creates a lease or security interest is determined by  
21 the facts of each case.

22 (b) A transaction in the form of a lease creates a security interest if the  
23 consideration that the lessee is to pay the lessor for the right to possession and use of  
24 the goods is an obligation for the term of the lease and is not subject to termination by  
25 the lessee, and the

26 (1) original term of the lease is equal to or greater than the remaining  
27 economic life of the goods;

28 (2) lessee is bound to renew the lease for the remaining economic life  
29 of the goods or is bound to become the owner of the goods;

30 (3) lessee has an option to renew the lease for the remaining economic  
31 life of the goods for no additional consideration or for nominal additional

1 consideration upon compliance with the lease agreement; or

2 (4) lessee has an option to become the owner of the goods for no  
3 additional consideration or for nominal additional consideration on compliance with  
4 the lease agreement.

5 (c) A transaction in the form of a lease does not create a security interest  
6 merely because the

7 (1) present value of the consideration the lessee is obligated to pay the  
8 lessor for the right to possession and use of the goods is substantially equal to or  
9 greater than the fair market value of the goods at the time the lease is entered into;

10 (2) lessee assumes risk of loss of the goods;

11 (3) lessee agrees to pay, with respect to the goods, taxes, insurance,  
12 filing, recording, or registration fees, or service or maintenance costs;

13 (4) lessee has an option to renew the lease or to become the owner of  
14 the goods;

15 (5) lessee has an option to renew the lease for a fixed rent that is equal  
16 to or greater than the reasonably predictable fair market rent for the use of the goods  
17 for the term of the renewal at the time the option is to be performed; or

18 (6) lessee has an option to become the owner of the goods for a fixed  
19 price that is equal to or greater than the reasonably predictable fair market value of the  
20 goods at the time the option is to be performed.

21 (d) Additional consideration is nominal if it is less than the lessee's reasonably  
22 predictable cost of performing under the lease agreement if the option is not exercised.  
23 Additional consideration is not nominal if, when the option to

24 (1) renew the lease is granted to the lessee, the rent is stated to be the  
25 fair market rent for the use of the goods for the term of the renewal determined at the  
26 time the option is to be performed; or

27 (2) become the owner of the goods is granted to the lessee, the price is  
28 stated to be the fair market value of the goods determined at the time the option is to  
29 be performed.

30 (e) The remaining economic life of the goods and reasonably predictable fair  
31 market rent, fair market value, or cost of performing under the lease agreement must

1 be determined with reference to the facts and circumstances at the time the transaction  
2 is entered into.

3 **Sec. 45.01.214. Value.** Except as otherwise provided in AS 45.03, AS 45.04,  
4 and AS 45.05, a person gives value for rights if the person acquires them

5 (1) in return for a binding commitment to extend credit or for the  
6 extension of immediately available credit, whether or not drawn upon and whether or  
7 not a charge-back is provided for in the event of difficulties in collection;

8 (2) as security for, or in total or partial satisfaction of, a preexisting  
9 claim;

10 (3) by accepting delivery under a preexisting contract for purchase; or

11 (4) in return for consideration sufficient to support a simple contract.

12 **Sec. 45.01.215. Reasonable time; seasonableness.** (a) Whether a time for  
13 taking an action required by the code is reasonable depends on the nature, purpose,  
14 and circumstances of the action.

15 (b) An action is taken seasonably if it is taken at or within the time agreed on  
16 or, if no time is agreed on, at or within a reasonable time.

17 **Sec. 45.01.216. Presumptions.** Whenever the code creates a presumption with  
18 respect to a fact, or provides that a fact is presumed, the trier of fact must find the  
19 existence of the fact unless and until evidence is introduced that supports a finding of  
20 the nonexistence of the fact.

### 21 **Article 3. Territorial Applicability and General Rules.**

22 **Sec. 45.01.301. Territorial applicability; parties' power to choose**  
23 **applicable law.** (a) Except as otherwise provided in this section, when a transaction  
24 bears a reasonable relation to this state and also to another state or nation, the parties  
25 may agree that the law of this state or of the other state or nation shall govern the  
26 parties' rights and duties.

27 (b) In the absence of an agreement effective under (a) of this section, and  
28 except as provided in (c) of this section, the code applies to transactions bearing an  
29 appropriate relation to this state.

30 (c) If one of the following provisions of the code specifies the applicable law,  
31 that provision governs, and a contrary agreement is effective only to the extent

1 permitted by the applicable law specified by that provision:

- 2 (1) AS 45.02.402;
- 3 (2) AS 45.04.102;
- 4 (3) AS 45.05.116;
- 5 (4) AS 45.08.110;
- 6 (5) AS 45.12.105 and 45.12.106;
- 7 (6) AS 45.14.507;
- 8 (7) AS 45.29.301 - 45.29.307.

9 **Sec. 45.01.302. Variation by agreement.** (a) Except as otherwise provided in  
10 (b) of this section or elsewhere in the code, the effect of provisions of the code may be  
11 varied by agreement.

12 (b) The obligations of good faith, diligence, reasonableness, and care  
13 prescribed by the code may not be disclaimed by agreement. The parties, by  
14 agreement, may determine the standards by which the performance of those  
15 obligations is to be measured if those standards are not manifestly unreasonable.  
16 Whenever the code requires an action to be taken within a reasonable time, a time that  
17 is not manifestly unreasonable may be fixed by agreement.

18 (c) The presence in certain provisions of the code of the phrase "unless  
19 otherwise agreed," or words of similar import, does not imply that the effect of other  
20 provisions may not be varied by agreement under this section.

21 **Sec. 45.01.303. Course of performance, course of dealing, and usage of**  
22 **trade.** (a) A "course of performance" is a sequence of conduct between the parties to a  
23 particular transaction that exists if the

24 (1) agreement of the parties with respect to the transaction involves  
25 repeated occasions for performance by a party; and

26 (2) other party, with knowledge of the nature of the performance and  
27 opportunity for objection to it, accepts the performance or acquiesces in it without  
28 objection.

29 (b) A "course of dealing" is a sequence of conduct concerning previous  
30 transactions between the parties to a particular transaction that is fairly to be regarded  
31 as establishing a common basis of understanding for interpreting the parties'

1 expressions and other conduct.

2 (c) A "usage of trade" is a practice or method of dealing having the regularity  
3 of observance in a place, vocation, or trade as to justify an expectation that it will be  
4 observed with respect to the transaction in question. The existence and scope of a  
5 usage of trade must be proved as facts. If it is established that a usage of trade is  
6 embodied in a trade code or similar record, the interpretation of the record is a  
7 question of law.

8 (d) A course of performance or course of dealing between the parties or usage  
9 of trade in the vocation or trade in which they are engaged or of which they are or  
10 should be aware is relevant in ascertaining the meaning of the parties' agreement, may  
11 give particular meaning to specific terms of the agreement, and may supplement or  
12 qualify the terms of the agreement. A usage of trade applicable in the place in which  
13 part of the performance under the agreement is to occur may be used as indicated in  
14 the previous sentence as to that part of the performance.

15 (e) Except as otherwise provided in (f) of this section, the express terms of an  
16 agreement and an applicable course of performance, course of dealing, or usage of  
17 trade must be construed whenever reasonable as consistent with each other. If this  
18 construction is unreasonable,

19 (1) express terms prevail over course of performance, course of  
20 dealing, and usage of trade;

21 (2) course of performance prevails over course of dealing and usage of  
22 trade; and

23 (3) course of dealing prevails over usage of trade.

24 (f) Subject to AS 45.02.209, a course of performance is relevant to show a  
25 waiver or modification of a term inconsistent with the course of performance.

26 (g) Evidence of a relevant usage of trade offered by one party is not  
27 admissible unless that party has given the other party notice that the court finds  
28 sufficient to prevent unfair surprise to the other party.

29 **Sec. 45.01.304. Obligation of good faith.** Every contract or duty within the  
30 code imposes an obligation of good faith in its performance and enforcement.

31 **Sec. 45.01.305. Remedies to be liberally administered.** (a) The remedies

1 provided by the code must be liberally administered to the end that the aggrieved party  
2 may be put in as good a position as if the other party had fully performed, but neither  
3 consequential or special damages nor penal damages may be had except as specifically  
4 provided in the code or by other rule of law.

5 (b) A right or obligation declared by the code is enforceable by action unless  
6 the provision declaring it specifies a different and limited effect.

7 **Sec. 45.01.306. Waiver or renunciation of claim or right after breach.** A  
8 claim or right arising out of an alleged breach may be discharged in whole or in part  
9 without consideration by agreement of the aggrieved party in an authenticated record.

10 **Sec. 45.01.307. Prima facie evidence by third-party documents.** A  
11 document in due form purporting to be a bill of lading, policy or certificate of  
12 insurance, official weigher's or inspector's certificate, consular invoice, or another  
13 document authorized or required by the contract to be issued by a third party is prima  
14 facie evidence of its own authenticity and genuineness and of the facts stated in the  
15 document by the third party.

16 **Sec. 45.01.308. Performance or acceptance under reservation of rights.** (a)  
17 A party who, with explicit reservation of rights, performs or promises performance or  
18 assents to performance in a manner demanded or offered by the other party does not  
19 by the performance, promise, or assent prejudice the rights reserved. The words,  
20 "without prejudice," "under protest," or the like are sufficient.

21 (b) The provisions of (a) of this section do not apply to an accord and  
22 satisfaction.

23 **Sec. 45.01.309. Option to accelerate at will.** A term providing that one party  
24 or that party's successor in interest may accelerate payment or performance or require  
25 collateral or additional collateral "at will" or when the party "deems itself insecure," or  
26 words of similar import, means that the party has power to make the acceleration or  
27 requirement only if that party in good faith believes that the prospect of payment or  
28 performance is impaired. The burden of establishing lack of good faith is on the party  
29 against whom the power has been exercised.

30 **Sec. 45.01.310. Subordinated obligations.** An obligation may be issued as  
31 subordinated to performance of another obligation of the person obligated, or a

1 creditor may subordinate its right to performance of an obligation by agreement with  
 2 either the person obligated or another creditor of the person obligated. Subordination  
 3 does not create a security interest as against either the common debtor or a  
 4 subordinated creditor.

5 \* **Sec. 10.** AS 45.02.103(c)(2) is amended to read:

6 (2) "consignee" **(AS 45.07.112)** [(AS 45.07.102)];

7 \* **Sec. 11.** AS 45.02.103(c)(3) is amended to read:

8 (3) "consignor" **(AS 45.07.112)** [(AS 45.07.102)];

9 \* **Sec. 12.** AS 45.02.103(c) is amended by adding a new paragraph to read:

10 (7) "control" (AS 45.07.116).

11 \* **Sec. 13.** AS 45.02.104(b) is amended to read:

12 (b) "Financing agency" means a bank, finance company, or other person who  
 13 in the ordinary course of business makes advances against goods or documents of title  
 14 or who by arrangement with either the seller or the buyer intervenes in ordinary course  
 15 to make or collect payment due or claimed under the contract for sale, as by  
 16 purchasing or paying the seller's draft or making advances against it or by merely  
 17 taking it for collection whether or not documents of title accompany **or are associated**  
 18 **with** the draft. "Financing agency" includes also a bank or other person who similarly  
 19 intervenes between persons who are in the position of seller and buyer in respect to the  
 20 goods (AS 45.02.707).

21 \* **Sec. 14.** AS 45.02.202 is amended to read:

22 **Sec. 45.02.202. Final written expression; parol or extrinsic evidence.** Terms  
 23 with respect to which the confirmatory memoranda of the parties agree, or that are  
 24 otherwise set out in a writing intended by the parties as a final expression of their  
 25 agreement with respect to the terms included in the writing, may not be contradicted  
 26 by evidence of a prior agreement or of a contemporaneous oral agreement, but may be  
 27 explained or supplemented

28 (1) by course of **performance, course of** dealing, or usage of trade  
 29 **(AS 45.01.303)** [(AS 45.01.205) OR BY COURSE OF PERFORMANCE  
 30 (AS 45.02.208)]; and

31 (2) by evidence of consistent additional terms unless the court finds the

1 writing was intended also as a complete and exclusive statement of the terms of the  
2 agreement.

3 \* **Sec. 15.** AS 45.02.310 is amended to read:

4 **Sec. 45.02.310. Open time for payment or running of credit; authority to**  
5 **ship under reservation.** Unless otherwise agreed,

6 (1) payment is due at the time and place at which the buyer is to  
7 receive the goods even though the place of shipment is the place of delivery;

8 (2) if the seller is authorized to send the goods, the seller may ship  
9 them under reservation and may tender the documents of title, but the buyer may  
10 inspect the goods after their arrival before payment is due unless inspection is  
11 inconsistent with the terms of the contract (AS 45.02.513);

12 (3) if delivery is authorized and made by way of documents of title  
13 other [OTHERWISE] than by (2) of this section, then payment is due, regardless of  
14 where the goods are to be received, at the time

15 (A) and place at which the buyer is to receive delivery of the  
16 tangible documents; or

17 (B) the buyer is to receive delivery of the electronic  
18 documents and at the seller's place of business or, if the seller does not  
19 have a place of business, the seller's residence [REGARDLESS OF WHERE  
20 THE GOODS ARE TO BE RECEIVED]; and

21 (4) if the seller is required or authorized to ship the goods on credit, the  
22 credit period runs from the time of shipment, but postdating the invoice or delaying its  
23 dispatch correspondingly delays the starting of the credit period.

24 \* **Sec. 16.** AS 45.02.323(b) is amended to read:

25 (b) Where, in a case within (a) of this section, a tangible bill of lading has  
26 been issued in a set of parts, unless otherwise agreed, if the documents are not to be  
27 sent from abroad, the buyer may demand tender of the full set; otherwise only one part  
28 of the bill of lading need be tendered. Even if the agreement expressly requires a full  
29 set,

30 (1) due tender of a single part is acceptable within the provisions on  
31 cure of improper delivery (AS 45.02.508(a)); and

1 (2) even though the full set is demanded, if the documents are sent  
 2 from abroad, the person tendering an incomplete set may nevertheless require payment  
 3 upon furnishing an indemnity that the buyer in good faith considers adequate.

4 \* **Sec. 17.** AS 45.02.401 is amended to read:

5 **Sec. 45.02.401. Passing of title; reservation for security; limited**  
 6 **application of this section.** Each provision of this chapter with regard to the rights,  
 7 obligations, and remedies of the seller, the buyer, purchasers, or other third parties  
 8 applies irrespective of title to the goods except where the provision refers to the title.  
 9 Insofar as situations are not covered by the other provisions of this chapter and matters  
 10 concerning title become material, the following rules apply:

11 (1) title to goods cannot pass under a contract for sale before their  
 12 identification to the contract (AS 45.02.501), and, unless otherwise explicitly agreed,  
 13 the buyer acquires by their identification a special property as limited by the code; a  
 14 retention or reservation by the seller of the title (property) in goods shipped or  
 15 delivered to the buyer is limited in effect to a reservation of a security interest; subject  
 16 to these provisions and to the provisions of AS 45.29, title to goods passes from the  
 17 seller to the buyer in the manner and on the conditions explicitly agreed on by the  
 18 parties;

19 (2) unless otherwise explicitly agreed, title passes to the buyer at the  
 20 time and place at which the seller completes performance with reference to the  
 21 physical delivery of the goods, despite a reservation of a security interest and even  
 22 though a document of title is to be delivered at a different time or place; in particular  
 23 and despite a reservation of a security interest by the bill of lading,

24 (A) if the contract requires or authorizes the seller to send the  
 25 goods to the buyer but does not require the seller to deliver them at destination,  
 26 title passes to the buyer at the time and place of shipment; but

27 (B) if the contract requires delivery at destination, title passes  
 28 on tender there;

29 (3) unless otherwise explicitly agreed, where delivery is to be made  
 30 without moving the goods,

31 (A) if the seller is to deliver a **tangible** document of title, title

1 passes at the time and place the seller delivers the **document, and, if the seller**  
 2 **is to deliver an electronic document of title, title passes when the seller**  
 3 **delivers the document** [DOCUMENTS]; or

4 (B) if the goods are at the time of contracting already identified  
 5 and no documents **of title** are to be delivered, title passes at the time and place  
 6 of contracting;

7 (4) a rejection or other refusal by the buyer to receive or retain the  
 8 goods, whether or not justified, or a justified revocation of acceptance reverts title to  
 9 the goods in the seller; this reversioning occurs by operation of law and is not a "sale."

10 \* **Sec. 18.** AS 45.02.503(d) is amended to read:

11 (d) If goods are in the possession of a bailee and are to be delivered without  
 12 being moved,

13 (1) tender requires that the seller either tender a negotiable document  
 14 of title covering the goods or procure acknowledgment by the bailee of the buyer's  
 15 right to possession of the goods; but

16 (2) tender to the buyer of a nonnegotiable document of title or of a  
 17 **record directing** [WRITTEN DIRECTION TO] the bailee to deliver is sufficient  
 18 tender unless the buyer seasonably objects, and, **except as otherwise provided in**  
 19 **AS 45.29**, receipt by the bailee of notification of the buyer's rights fixes those rights as  
 20 against the bailee and all third persons; but risk of loss of the goods and of a failure by  
 21 the bailee to honor the nonnegotiable document of title or to obey the direction  
 22 remains on the seller until the buyer has had a reasonable time to present the document  
 23 or direction, and a refusal by the bailee to honor the document or to obey the direction  
 24 defeats the tender.

25 \* **Sec. 19.** AS 45.02.503(e) is amended to read:

26 (e) If the contract requires the seller to deliver documents,

27 (1) the seller must tender all such documents in correct form except as  
 28 provided in AS 45.02.323(b) with respect to bills of lading in a set; and

29 (2) tender through customary banking channels is sufficient, and  
 30 dishonor of a draft accompanying **or associated with** the documents constitutes  
 31 nonacceptance or rejection.

1 \* **Sec. 20.** AS 45.02.505 is amended to read:

2 **Sec. 45.02.505. Seller's shipment under reservation.** (a) If the seller has  
3 identified goods to the contract by or before shipment,

4 (1) the seller's procurement of a negotiable bill of lading to the seller's  
5 order or otherwise reserves in the seller a security interest in the goods; the seller's  
6 procurement of the bill to the order of a financing agency or of the buyer indicates in  
7 addition only the seller's expectation of transferring that interest to the person named;

8 (2) a nonnegotiable bill of lading to the seller or the nominee of the  
9 seller reserves possession of the goods as security, but, except in a case of conditional  
10 delivery (AS 45.02.507(b)), a nonnegotiable bill of lading naming the buyer as  
11 consignee reserves no security interest even though the seller retains possession **or**  
12 **control** of the bill of lading.

13 (b) If shipment by the seller with reservation of a security interest is in  
14 violation of the contract for sale, it constitutes an improper contract for transportation  
15 within **AS 45.02.504** [THE PRECEDING SECTION] but impairs neither the rights  
16 given to the buyer by shipment and identification of the goods to the contract nor the  
17 seller's powers as a holder of a negotiable document **of title**.

18 \* **Sec. 21.** AS 45.02.506(b) is amended to read:

19 (b) The right to reimbursement of a financing agency that has in good faith  
20 honored or purchased the draft under commitment to or authority from the buyer is not  
21 impaired by subsequent discovery of defects with reference to a relevant document  
22 that was apparently regular [ON ITS FACE].

23 \* **Sec. 22.** AS 45.02.509(b) is amended to read:

24 (b) Where the goods are held by a bailee to be delivered without being moved,  
25 the risk of loss passes to the buyer

26 (1) on the buyer's receipt of **possession or control of** a negotiable  
27 document of title covering the goods;

28 (2) on acknowledgment by the bailee of the buyer's right to possession  
29 of the goods; or

30 (3) after the buyer's receipt of **possession or control of** a  
31 nonnegotiable document of title or other [WRITTEN] direction to deliver **in a record**,

1 as provided in AS 45.02.503(d)(2).

2 \* **Sec. 23.** AS 45.02.605(b) is amended to read:

3 (b) Payment against documents made without reservation of rights precludes  
4 recovery of the payment for defects apparent in [ON THE FACE OF] the documents.

5 \* **Sec. 24.** AS 45.02.705(b) is amended to read:

6 (b) As against the buyer, the seller may stop delivery until

7 (1) receipt of the goods by the buyer;

8 (2) acknowledgment to the buyer by a bailee of the goods, except a  
9 carrier, that the bailee holds the goods for the buyer;

10 (3) an [THAT] acknowledgment to the buyer under (1) or (2) of this  
11 subsection by a carrier by reshipment or as a warehouse [WAREHOUSEMAN]; or

12 (4) negotiation to the buyer of a negotiable document of title covering  
13 the goods.

14 \* **Sec. 25.** AS 45.02.705(e) is amended to read:

15 (e) If a negotiable document of title has been issued for goods, the bailee is not  
16 obliged to obey a notification to stop until surrender of possession or control of the  
17 document.

18 \* **Sec. 26.** AS 45.03.103(a)(10) is amended to read:

19 (10) "prove," with respect to a fact, means to meet the burden of  
20 establishing the fact (AS 45.01.211) [(AS 45.01.201)];

21 \* **Sec. 27.** AS 45.04.104(c) is amended by adding a new paragraph to read:

22 (19) "control" (AS 45.07.116).

23 \* **Sec. 28.** AS 45.04.210(c) is amended to read:

24 (c) Receipt by a collecting bank of a final settlement for an item is a  
25 realization on its security interest in the item, accompanying documents, and proceeds.  
26 So long as the bank does not receive final settlement for the item or give up possession  
27 of the item or possession or control of the accompanying documents for purposes  
28 other than collection, the security interest continues to that extent and is subject to  
29 AS 45.29, but

30 (1) a security agreement is not necessary to make the security interest  
31 enforceable (AS 45.29.203(b)(3)(A));

1 (2) filing is not required to perfect the security interest; and

2 (3) the security interest has priority over conflicting perfected security  
3 interests in the item, accompanying documents, or proceeds.

4 \* **Sec. 29.** AS 45.05.103(c) is amended to read:

5 (c) With the exception of this subsection, (a) and (d) of this section,  
6 AS 45.05.102(a)(9) and (10), 45.05.106(d), and 45.05.114(d), and except to the extent  
7 prohibited in AS 45.01.302 [AS 45.01.102(c)] and AS 45.05.117(d), the effect of this  
8 chapter may be varied by agreement or by a provision stated or incorporated by  
9 reference in an undertaking. A term in an agreement or undertaking generally excusing  
10 liability or generally limiting remedies for failure to perform obligations is not  
11 sufficient to vary obligations prescribed by this chapter.

12 \* **Sec. 30.** AS 45.07 is amended by adding new sections to read:

13 **Sec. 45.07.111. Short title.** This chapter may be cited as the Uniform  
14 Commercial Code - Documents of Title.

15 **Sec. 45.07.112. Definitions and index of definitions.** (a) In this chapter,  
16 unless the context otherwise requires,

17 (1) "bailee" means a person who, by a warehouse receipt, bill of  
18 lading, or other document of title, acknowledges possession of goods and contracts to  
19 deliver them;

20 (2) "carrier" means a person who issues a bill of lading;

21 (3) "consignee" means a person named in a bill of lading to whom or  
22 to whose order the bill promises delivery;

23 (4) "consignor" means a person named in a bill of lading as the person  
24 from whom the goods have been received for shipment;

25 (5) "delivery order" means a record that contains an order to deliver  
26 goods directed to a warehouse, carrier, or other person who, in the ordinary course of  
27 business, issues warehouse receipts or bills of lading;

28 (6) "goods" means all things that are treated as movable for the  
29 purposes of a contract for storage or transportation;

30 (7) "issuer" means a bailee who issues a document of title or, in the  
31 case of an unaccepted delivery order, the person who orders the possessor of goods to

1 deliver; "issuer" includes a person for whom an agent or employee purports to act in  
 2 issuing a document if the agent or employee has real or apparent authority to issue  
 3 documents, even if the issuer did not receive the goods, the goods were misdescribed,  
 4 or in another respect the agent or employee violated the issuer's instructions;

5 (8) "person entitled under the document" means the holder, in the case  
 6 of a negotiable document of title, or the person to whom delivery of the goods is to be  
 7 made by the terms of, or under instructions in a record under, a nonnegotiable  
 8 document of title;

9 (9) "shipper" means a person who enters into a contract of  
 10 transportation with a carrier;

11 (10) "sign" means, with present intent to authenticate or adopt a  
 12 record, to

13 (A) execute or adopt a tangible symbol; or

14 (B) attach to or logically associate with the record an electronic  
 15 sound, symbol, or process;

16 (11) "warehouse" means a person engaged in the business of storing  
 17 goods for hire.

18 (b) Definitions in other chapters applying to this chapter and the sections in  
 19 which the definitions appear are

20 (1) "contract for sale" (AS 45.02.106);

21 (2) "lessee in ordinary course of business" (AS 45.12.103);

22 (3) "receipt" of goods (AS 45.02.103).

23 (c) In addition, AS 45.01 contains general definitions and principles of  
 24 construction and interpretation applicable throughout this chapter.

25 **Sec. 45.07.113. Relation of chapter to treaty or statute.** (a) This chapter is  
 26 subject to a treaty or statute of the United States or regulatory statute of this state to  
 27 the extent the treaty, statute, or regulatory statute is applicable.

28 (b) This chapter does not modify or repeal a law prescribing the form or  
 29 content of a document of title or the services or facilities to be afforded by a bailee, or  
 30 otherwise regulating a bailee's business in respects not specifically treated in this  
 31 chapter. However, violation of a law described under the previous sentence does not

1 affect the status of a document of title that otherwise is within the definition of a  
2 document of title.

3 (c) To the extent there is a conflict between AS 09.80 and this chapter, this  
4 chapter governs.

5 **Sec. 45.07.114. Negotiable and nonnegotiable document of title.** (a) Except  
6 as otherwise provided in (c) of this section, a document of title is negotiable if by its  
7 terms the goods are to be delivered to bearer or to the order of a named person.

8 (b) A document of title other than one described in (a) of this section is  
9 nonnegotiable. A bill of lading that states that the goods are consigned to a named  
10 person is not made negotiable by a provision that the goods are to be delivered only  
11 against an order in a record signed by the same or another named person.

12 (c) A document of title is nonnegotiable if, at the time it is issued, the  
13 document has a conspicuous legend, however expressed, that it is nonnegotiable.

14 **Sec. 45.07.115. Reissuance in alternative medium.** (a) On request of a person  
15 entitled under an electronic document of title, the issuer of the electronic document  
16 may issue a tangible document of title as a substitute for the electronic document if

17 (1) the person entitled under the electronic document surrenders  
18 control of the document to the issuer; and

19 (2) the tangible document when issued contains a statement that it is  
20 issued in substitution for the electronic document.

21 (b) Upon issuance of a tangible document of title in substitution for an  
22 electronic document of title under (a) of this section,

23 (1) the electronic document ceases to have effect or validity; and

24 (2) the person who procured issuance of the tangible document  
25 warrants to all subsequent persons entitled under the tangible document that the  
26 warrantor was a person entitled under the electronic document when the warrantor  
27 surrendered control of the electronic document to the issuer.

28 (c) On request of a person entitled under a tangible document of title, the  
29 issuer of the tangible document may issue an electronic document of title as a  
30 substitute for the tangible document if

31 (1) the person entitled under the tangible document surrenders

1 possession of the document to the issuer; and

2 (2) the electronic document when issued contains a statement that it is  
3 issued in substitution for the tangible document.

4 (d) On issuance of an electronic document of title in substitution for a tangible  
5 document of title under (c) of this section,

6 (1) the tangible document ceases to have effect or validity; and

7 (2) the person who procured issuance of the electronic document  
8 warrants to all subsequent persons entitled under the electronic document that the  
9 warrantor was a person entitled under the tangible document when the warrantor  
10 surrendered possession of the tangible document to the issuer.

11 **Sec. 45.07.116. Control of electronic document of title.** (a) A person has  
12 control of an electronic document of title if a system employed for evidencing the  
13 transfer of interests in the electronic document reliably establishes that person as the  
14 person to whom the electronic document was issued or transferred.

15 (b) A system satisfies (a) of this section, and a person is considered to have  
16 control of an electronic document of title, if the document is created, stored, and  
17 assigned in a manner by which

18 (1) a single authoritative copy of the document exists that is unique,  
19 identifiable, and, except as otherwise provided in (4), (5), and (6) of this subsection,  
20 unalterable;

21 (2) the authoritative copy identifies the person asserting control as

22 (A) the person to whom the document was issued; or

23 (B) if the authoritative copy indicates that the document has  
24 been transferred, the person to whom the document was most recently  
25 transferred;

26 (3) the authoritative copy is communicated to and maintained by the  
27 person asserting control or the person's designated custodian;

28 (4) copies or amendments that add or change an identified assignee of  
29 the authoritative copy can be made only with the consent of the person asserting  
30 control;

31 (5) each copy of the authoritative copy and a copy of a copy are readily

1 identifiable as a copy that is not the authoritative copy; and

2 (6) an amendment of the authoritative copy is readily identifiable as  
3 authorized or unauthorized.

4 \* **Sec. 31.** AS 45.07.201 is amended to read:

5 **Sec. 45.07.201. Person who [WHO] may issue a warehouse receipt; storage**  
6 **under [GOVERNMENT] bond.** (a) A warehouse receipt may be issued by a  
7 **warehouse [WAREHOUSEMAN].**

8 (b) If goods, including distilled spirits and agricultural commodities, are stored  
9 under a statute requiring a bond against withdrawal or a license for the issuance of  
10 receipts in the nature of warehouse receipts, a receipt issued for the goods **is**  
11 **considered to be [HAS LIKE EFFECT AS] a warehouse receipt even if [THOUGH]**  
12 **issued by a person who is the owner of the goods and is not a warehouse**  
13 **[WAREHOUSEMAN].**

14 \* **Sec. 32.** AS 45.07.202 is repealed and reenacted to read:

15 **Sec. 45.07.202. Form of warehouse receipt; effect of omission.** (a) A  
16 warehouse receipt need not be in a particular form.

17 (b) Unless a warehouse receipt provides for each of the following, the  
18 warehouse is liable for damages caused to a person injured by its omission:

19 (1) a statement of the location of the warehouse facility where the  
20 goods are stored;

21 (2) the date of issue of the receipt;

22 (3) the unique identification code of the receipt;

23 (4) a statement whether the goods received will be delivered to the  
24 bearer, to a named person, or to a named person or the named person's order;

25 (5) the rate of storage and handling charges, unless goods are stored  
26 under a field warehousing arrangement, in which case a statement of that fact is  
27 sufficient on a nonnegotiable receipt;

28 (6) a description of the goods or the packages containing them;

29 (7) the signature of the warehouse or its agent;

30 (8) if the receipt is issued for goods that the warehouse owns, solely,  
31 jointly, or in common with others, a statement of that ownership; and

1 (9) a statement of the amount of advances made and of liabilities  
 2 incurred for which the warehouse claims a lien or security interest, unless the precise  
 3 amount of advances made or liabilities incurred, at the time of the issue of the receipt,  
 4 is unknown to the warehouse or to its agent who issued the receipt, in which case, a  
 5 statement of the fact that advances have been made or liabilities incurred and the  
 6 purpose of the advances or liabilities is sufficient.

7 (c) A warehouse may insert in its receipt terms that are not contrary to the  
 8 code and do not impair its obligation of delivery under AS 45.07.403 or its duty of  
 9 care under AS 45.07.204. A contrary provision is ineffective.

10 \* **Sec. 33.** AS 45.07.203 is amended to read:

11 **Sec. 45.07.203. Liability for nonreceipt or misdescription.** A party to or  
 12 purchaser for value in good faith of a document of title, other than a bill of lading, **that**  
 13 **relies on** [RELYING IN EITHER CASE UPON] the description **of the goods** in the  
 14 document [OF THE GOODS] may recover from the issuer damages caused by the  
 15 nonreceipt or misdescription of the goods, except to the extent that

16 (1) the document conspicuously indicates that the issuer does not know  
 17 whether [ANY PART OR] all **or part** of the goods in fact were received or conform  
 18 to the description, as **in the case** where the description is in terms of marks or labels  
 19 **or** [OF] kind, quantity, or condition, or the receipt or description is qualified by  
 20 "contents, condition, and quality unknown," "said to contain," or **words of similar**  
 21 **import** [THE LIKE], if this indication is true; [,] or

22 (2) the party or purchaser otherwise has notice **of the nonreceipt or**  
 23 **misdescription.**

24 \* **Sec. 34.** AS 45.07.204 is amended to read:

25 **Sec. 45.07.204. Duty of care; contractual limitation of warehouse's**  
 26 **[WAREHOUSEMAN'S] liability.** (a) A **warehouse** [WAREHOUSEMAN] is liable  
 27 for damages for loss of or injury to the goods caused by the **warehouse's** failure to  
 28 exercise [THE] care **with** [IN] regard to **the goods** [THEM] that a reasonably careful  
 29 person would exercise under **similar** [LIKE] circumstances. **Unless** [, BUT, UNLESS]  
 30 otherwise agreed, the **warehouse** [WAREHOUSEMAN] is not liable for damages that  
 31 could not have been avoided by the exercise of this care.

1 (b) Damages may be limited by a term in the warehouse receipt or storage  
 2 agreement limiting the amount of liability in case of loss or damage [, AND SETTING  
 3 OUT A SPECIFIC LIABILITY PER ARTICLE OR ITEM, OR VALUE PER UNIT  
 4 OF WEIGHT,] beyond which the warehouse is [WAREHOUSEMAN SHALL] not  
 5 [BE] liable. **The limitation is not effective with respect to the warehouse's liability**  
 6 **for conversion to its own use. On** [; HOWEVER, THIS LIABILITY MAY, ON  
 7 WRITTEN] request of the bailor **in a record** at the time of signing the storage  
 8 agreement, or within a reasonable time after receipt of the warehouse receipt, **the**  
 9 **warehouse's liability may** be increased on part or all of the goods **covered by the**  
 10 **storage agreement or** [UNDER] the warehouse receipt [OR AGREEMENT]. In this  
 11 event, increased rates may be charged based on **an** [THE] increased valuation **of the**  
 12 **goods** [, BUT NO INCREASE MAY BE PERMITTED CONTRARY TO A  
 13 LAWFUL LIMITATION OF LIABILITY CONTAINED IN THE  
 14 WAREHOUSEMAN'S TARIFF. NO LIMITATION IS EFFECTIVE WITH  
 15 RESPECT TO THE WAREHOUSEMAN'S LIABILITY FOR CONVERSION TO  
 16 THE WAREHOUSEMAN'S OWN USE].

17 (c) Reasonable provisions as to the time and manner of presenting claims and  
 18 **commencing** [INSTITUTING] actions based on the bailment may be included in the  
 19 warehouse receipt or **storage agreement** [TARIFF].

20 \* **Sec. 35.** AS 45.07.205 is amended to read:

21 **Sec. 45.07.205. Title under warehouse receipt defeated in certain cases.** A  
 22 buyer in [THE] ordinary course of business of fungible goods sold and delivered by a  
 23 **warehouse that** [WAREHOUSEMAN WHO] is also in the business of buying and  
 24 selling **those** [THE] goods takes **the goods** free of **any** [A] claim under a warehouse  
 25 receipt even **if the receipt is negotiable and** [THOUGH IT] has been duly negotiated.

26 \* **Sec. 36.** AS 45.07.206 is amended to read:

27 **Sec. 45.07.206. Termination of storage at warehouse's**  
 28 **[WAREHOUSEMAN'S] option.** (a) A **warehouse** [WAREHOUSEMAN] may, **by**  
 29 **giving notice to** [ON NOTIFYING] the person on whose account the goods are held  
 30 and [ANY] other **persons** [PERSON] known to claim an interest in the goods, require  
 31 payment of **any** charges and removal of the goods from the warehouse at the

1 termination of the period of storage fixed by the document **of title**, or, if **a** [NO] period  
 2 is **not** fixed, within a stated period not less than 30 days after the **warehouse gives**  
 3 **notice** [NOTIFICATION]. If the goods are not removed before the date specified in  
 4 the **notice** [NOTIFICATION], the **warehouse** [WAREHOUSEMAN] may sell them  
 5 **under AS 45.07.210** [IN ACCORDANCE WITH THE PROVISIONS OF THE  
 6 SECTION ON ENFORCEMENT OF A WAREHOUSEMAN'S LIEN  
 7 (AS 45.07.210)].

8 (b) If a **warehouse** [WAREHOUSEMAN] in good faith believes that [THE]  
 9 goods are about to deteriorate or decline in value to less than the amount of **its** [THE]  
 10 lien within the time **provided** [PRESCRIBED] in (a) of this section **and AS 45.07.210**  
 11 [FOR NOTIFICATION, ADVERTISEMENT, AND SALE], the **warehouse**  
 12 [WAREHOUSEMAN] may specify in the **notice given under (a) of this section**  
 13 [NOTIFICATION] a reasonable shorter time for removal of the goods and, **if** [IN  
 14 CASE] the goods are not removed, may sell them at public sale held not less than one  
 15 week after a single advertisement or posting.

16 (c) If, as a result of a quality or condition of the goods of which the  
 17 **warehouse did not have** [WAREHOUSEMAN HAD NO] notice at the time of  
 18 deposit, the goods are a hazard to other property, [OR TO] the warehouse **facilities**, or  
 19 **other** [TO] persons, the **warehouse** [WAREHOUSEMAN] may sell the goods at  
 20 public or private sale without advertisement **or posting** on reasonable notification to  
 21 all persons known to claim an interest in the goods. If the **warehouse**,  
 22 [WAREHOUSEMAN] after a reasonable effort, is unable to sell the goods, the  
 23 **warehouse** [WAREHOUSEMAN] may dispose of them in a lawful manner **and does**  
 24 **not incur** [; THE WAREHOUSEMAN INCURS NO] liability by reason of this  
 25 disposition.

26 (d) **A warehouse shall** [THE WAREHOUSEMAN MUST] deliver the goods  
 27 to a person entitled to them under this chapter **on** [UPON] due demand made at any  
 28 time before sale or other disposition under this section.

29 (e) **A warehouse** [THE WAREHOUSEMAN] may satisfy the **warehouse's**  
 30 lien from the proceeds of a sale or disposition under this section, but **shall** [MUST]  
 31 hold the balance for delivery on the demand of a person to whom the **warehouse**

1 [WAREHOUSEMAN] would have been bound to deliver the goods.

2 \* **Sec. 37.** AS 45.07.207 is amended to read:

3 **Sec. 45.07.207. Goods must be kept separate; fungible goods.** (a) Unless the  
4 warehouse receipt provides otherwise [PROVIDES], a warehouse shall  
5 [WAREHOUSEMAN MUST] keep separate the goods covered by each receipt so as  
6 to permit at all times identification and delivery of those goods. However, [EXCEPT  
7 THAT] different lots of fungible goods may be commingled.

8 (b) If different lots of fungible [FUNGIBLE] goods are [SO] commingled,  
9 the goods are owned in common by the persons entitled to them, and the warehouse  
10 [WAREHOUSEMAN] is severally liable to each owner for that owner's share. If,  
11 because of overissue, a mass of fungible goods is insufficient to meet all the receipts  
12 that the warehouse [WAREHOUSEMAN] has issued against it, the persons entitled  
13 include all holders to whom overissued receipts have been duly negotiated.

14 \* **Sec. 38.** AS 45.07.208 is amended to read:

15 **Sec. 45.07.208. Altered warehouse receipts.** If a blank in a negotiable  
16 warehouse receipt has been filled in without authority, a good faith purchaser for  
17 value and without notice of the lack [WANT] of authority may treat the insertion as  
18 authorized. Any other unauthorized alteration leaves a tangible or electronic  
19 warehouse receipt enforceable against the issuer according to its original tenor.

20 \* **Sec. 39.** AS 45.07.209 is amended to read:

21 **Sec. 45.07.209. Lien of warehouse [WAREHOUSEMAN].** (a) A warehouse  
22 [WAREHOUSEMAN] has a lien against the bailor on the goods covered by a  
23 warehouse receipt or storage agreement or on the proceeds of the goods in the  
24 warehouse's [WAREHOUSEMAN'S] possession for charges for storage or  
25 transportation, [(] including demurrage and terminal charges [)] , insurance, labor, or  
26 other charges, present or future, in relation to the goods, and for expenses necessary  
27 for preservation of the goods or reasonably incurred in their sale under law. If the  
28 person on whose account the goods are held is liable for similar [LIKE] charges or  
29 expenses in relation to other goods [,] whenever deposited and it is stated in the  
30 warehouse receipt or storage agreement that a lien is claimed for charges and  
31 expenses in relation to other goods, the warehouse [WAREHOUSEMAN] also has a

1 lien against **the goods covered by the warehouse receipt or storage agreement or**  
 2 **on the proceeds of the goods in its possession** [THAT PERSON] for these charges  
 3 and expenses, whether or not the other goods have been delivered by the **warehouse**  
 4 [WAREHOUSEMAN]. **However, as** [BUT] against a person to whom a negotiable  
 5 warehouse receipt is duly negotiated, a **warehouse's** [WAREHOUSEMAN'S] lien is  
 6 limited to charges in an amount or at a rate specified **in** [ON] the **warehouse** receipt  
 7 or, if no charges are [SO] specified, then to a reasonable charge for storage of the  
 8 **specific** goods covered by the receipt after the date of the receipt.

9 (b) **A warehouse** [THE WAREHOUSEMAN] may also reserve a security  
 10 interest against the bailor for **the** [A] maximum amount specified on the receipt for  
 11 charges other than those specified in (a) of this section, such as for money advanced  
 12 and interest. **The** [SUCH A] security interest is governed by AS 45.29 [ON  
 13 SECURED TRANSACTIONS].

14 (c) A **warehouse's** [WAREHOUSEMAN'S] lien for charges and expenses  
 15 under (a) of this section or a security interest under (b) of this section is also effective  
 16 against a person who [SO] entrusted the bailor with possession of the goods **to the**  
 17 **extent** that a pledge of them by the bailor to a good faith purchaser for value would  
 18 have been valid. **However, the lien or security interest** [, BUT] is not effective  
 19 against a person **who, before issuance of a document of title, had a legal interest or**  
 20 **a perfected security interest in the goods and did not**

21 **(1) deliver or entrust the goods or a document of title covering the**  
 22 **goods to the bailor or the bailor's nominee with**

23 **(A) actual or apparent authority to ship, store, or sell;**

24 **(B) power to obtain delivery under AS 45.07.403; or**

25 **(C) power of disposition under AS 45.02.403,**  
 26 **AS 45.12.304(b), 45.12.305(b), AS 45.29.320, 45.29.321(c), or other statute**  
 27 **or rule of law; or**

28 **(2) acquiesce in the procurement by the bailor or its nominee of a**  
 29 **document** [AS TO WHOM THE DOCUMENT CONFERS NO RIGHT IN THE  
 30 GOODS COVERED BY IT UNDER AS 45.07.503].

31 (d) A **warehouse** [WAREHOUSEMAN] loses **its** [THE] lien on **any** goods

1 that the **warehouse** [WAREHOUSEMAN] voluntarily delivers or unjustifiably  
2 refuses to deliver.

3 \* **Sec. 40.** AS 45.07.209 is amended by adding a new subsection to read:

4 (e) A warehouse's lien on household goods for charges and expenses in  
5 relation to the goods under (a) of this section is also effective against all persons if the  
6 depositor was the legal possessor of the goods at the time of deposit. In this  
7 subsection, "household goods" means furniture, furnishings, or personal effects used  
8 by the depositor in a dwelling.

9 \* **Sec. 41.** AS 45.07.210(a) is amended to read:

10 (a) Except as **otherwise** provided in (b) of this section, a **warehouse's**  
11 [WAREHOUSEMAN'S] lien may be enforced by public or private sale of the goods,  
12 in block or in **packages** [PARCELS], at any time or place, and on **any** terms that are  
13 commercially reasonable, after notifying all persons known to claim an interest in the  
14 goods. This notification must include a statement of the amount due, the nature of the  
15 proposed sale, and the time and place of **any** [A] public sale. The fact that a better  
16 price could have been obtained by a sale at a different time or in a **method** different  
17 [METHOD] from that selected by the **warehouse** [WAREHOUSEMAN] is not of  
18 itself sufficient to establish that the sale was not made in a commercially reasonable  
19 manner. **The warehouse** [IF THE WAREHOUSEMAN EITHER] sells **in a**  
20 **commercially reasonable manner if** the **warehouse sells the** goods in the usual  
21 manner in a recognized market for the goods, [OR IF THE WAREHOUSEMAN] sells  
22 at the price current in the market at the time of the sale, or [IF THE  
23 WAREHOUSEMAN HAS] otherwise **sells** [SOLD] in conformity with commercially  
24 reasonable practices among dealers in the type of goods sold [, THE  
25 WAREHOUSEMAN HAS SOLD IN A COMMERCIALY REASONABLE  
26 MANNER]. A sale of more goods than apparently necessary to be offered to **ensure**  
27 [INSURE] satisfaction of the obligation is not commercially reasonable, except in  
28 cases covered by the preceding sentence.

29 \* **Sec. 42.** AS 45.07.210(b) is amended to read:

30 (b) A **warehouse may enforce its** [WAREHOUSEMAN'S] lien on goods,  
31 other than goods stored by a merchant in the course of the merchant's business, [MAY

1 BE ENFORCED] only **if the following requirements are satisfied** [AS FOLLOWS]:

2 (1) all persons known to claim an interest in the goods must **have been**  
3 [BE] notified;

4 (2) [THE NOTIFICATION MUST BE DELIVERED IN PERSON OR  
5 SENT BY REGISTERED LETTER TO THE LAST KNOWN ADDRESS OF A  
6 PERSON TO BE NOTIFIED;

7 (3) the notification must include an itemized statement of the claim, a  
8 description of the goods subject to the lien, a demand for payment within a specified  
9 time not less than 10 days after receipt of the notification, and a conspicuous statement  
10 that, unless the claim is paid within that time, the goods will be advertised for sale and  
11 sold by auction at a specified time and place;

12 **(3)** [(4)] the sale must conform to the terms of the notification;

13 **(4)** [(5)] the sale must be held at the nearest suitable place to [THAT]  
14 where the goods are held or stored;

15 **(5)** [(6)] after the expiration of the time given in the notification, an  
16 advertisement of the sale must be published once a week for two weeks consecutively  
17 in a newspaper of general circulation where the sale is to be held; **the** [.THE]  
18 advertisement must include a description of the goods, the name of the person on  
19 whose account **the goods** [THEY] are being held, and the time and place of the sale;  
20 **the** [. THE] sale must take place at least 15 days after the first publication; **if** [. IF]  
21 there is no newspaper of general circulation where the sale is to be held, the  
22 advertisement must be posted at least 10 days before the sale in not **fewer** [LESS] than  
23 three conspicuous places in the neighborhood of the proposed sale.

24 \* **Sec. 43.** AS 45.07.210(c) is amended to read:

25 (c) Before a sale under this section, a person claiming a right in the goods may  
26 pay the amount necessary to satisfy the lien and the reasonable expenses incurred **in**  
27 **complying with** [UNDER] this section. In that event, the goods **may** [MUST] not be  
28 sold, but must be retained by the **warehouse** [WAREHOUSEMAN] subject to the  
29 terms of the receipt and this chapter.

30 \* **Sec. 44.** AS 45.07.210(d) is amended to read:

31 (d) **A warehouse** [THE WAREHOUSEMAN] may buy at a public sale **held**

1 under this section.

2 \* **Sec. 45.** AS 45.07.210(e) is amended to read:

3 (e) A purchaser in good faith of goods sold to enforce a **warehouse's**  
4 [WAREHOUSEMAN'S] lien takes the goods free of **the** rights of persons against  
5 whom the lien was valid, despite **the warehouse's** noncompliance [BY THE  
6 WAREHOUSEMAN] with [THE REQUIREMENTS OF] this section.

7 \* **Sec. 46.** AS 45.07.210(f) is amended to read:

8 (f) **A warehouse** [THE WAREHOUSEMAN] may satisfy **its** [THE] lien from  
9 the proceeds of a sale under this section, but **shall** [MUST] hold the balance, if any,  
10 for delivery on demand to a person to whom the **warehouse** [WAREHOUSEMAN]  
11 would have been bound to deliver the goods.

12 \* **Sec. 47.** AS 45.07.210(g) is amended to read:

13 (g) The rights provided by this section are in addition to all other rights  
14 allowed by law to a creditor against a debtor, **including the remedies available**  
15 **under AS 34.35.225.**

16 \* **Sec. 48.** AS 45.07.210(i) is amended to read:

17 (i) **A warehouse** [THE WAREHOUSEMAN] is liable for damages caused by  
18 failure to comply with the requirements for sale under this section and, in case of [A]  
19 wilful violation, is liable for conversion.

20 \* **Sec. 49.** AS 45.07.301 is amended to read:

21 **Sec. 45.07.301. Liability for nonreceipt or misdescription; "said to**  
22 **contain"; "shipper's weight, load, and count"; improper handling.** (a) A  
23 consignee of a nonnegotiable bill **of lading** who has given value in good faith, or a  
24 holder to whom a negotiable bill has been duly negotiated, relying **on** [IN EITHER  
25 CASE UPON] the description in the bill of the goods or **on** [UPON] the date shown in  
26 the bill, may recover [,] from the issuer [,] damages caused by the misdating of the bill  
27 or the nonreceipt or misdescription of the goods, except to the extent that the **bill**  
28 [DOCUMENT] indicates that the issuer does not know whether **a** [ANY] part or all of  
29 the goods in fact were received or conform to the description, as where the description  
30 is in terms of marks or labels or kind, quantity, or condition or the receipt or  
31 description is qualified by "contents or condition of contents of packages unknown,"

1 "said to contain," "shipper's weight, load, and count," or **words of similar import**  
 2 [THE LIKE], if this indication is true.

3 (b) If goods are loaded by **the** [AN] issuer **of a bill of lading** [WHO IS A  
 4 COMMON CARRIER],

5 **(1)** the issuer **shall** [MUST] count the packages of goods if **shipped in**  
 6 **packages** [PACKAGE FREIGHT] and ascertain the kind and quantity if **shipped in**  
 7 **bulk; and**

8 **(2) the words,** [FREIGHT. IN THIS CASE] "shipper's weight, load,  
 9 and count," or other words **of similar import** indicating that the description was made  
 10 by the shipper are ineffective except as to **goods** [FREIGHT] concealed **in** [BY]  
 11 packages.

12 (c) If bulk **goods are** [FREIGHT IS] loaded by a shipper who makes available  
 13 to the issuer **of a bill of lading** adequate facilities for weighing **those goods** [THE  
 14 FREIGHT], **the** [AN] issuer **shall** [WHO IS A COMMON CARRIER MUST]  
 15 ascertain the kind and quantity within a reasonable time after receiving the **shipper's**  
 16 [WRITTEN] request **in a record** [OF THE SHIPPER] to **ascertain the kind and**  
 17 **quantity** [DO SO]. In this case, "shipper's weight" or other words of **similar import**  
 18 [LIKE PURPORT] are ineffective.

19 (d) The issuer **of a bill of lading,** [MAY] by **including** [INSERTING] in the  
 20 bill the words "shipper's weight, load, and count" or [OTHER] words of **similar**  
 21 **import, may** [LIKE PURPORT] indicate that the goods were loaded by the shipper,  
 22 [;] and, if the statement is true, the issuer is not liable for damages caused by the  
 23 improper loading. **However,** [BUT THEIR] omission **of these words** does not imply  
 24 liability for [THE] damages **by improper loading.**

25 (e) **A** [THE] shipper **guarantees** [IS CONSIDERED TO HAVE  
 26 GUARANTEED] to **an** [THE] issuer the accuracy at the time of shipment of the  
 27 description, marks, labels, number, kind, quantity, condition, and weight as furnished  
 28 by the shipper, [;] and the shipper shall indemnify the issuer against damage caused by  
 29 inaccuracies in these particulars. **This** [THE] right of [THE ISSUER TO THIS]  
 30 indemnity **does not limit** [IN NO WAY LIMITS] the issuer's responsibility **or** [AND]  
 31 liability under the contract of carriage to a person other than the shipper.

1 \* **Sec. 50.** AS 45.07.302 is amended to read:

2 **Sec. 45.07.302. Through bills of lading and similar documents of title.** (a)

3 The issuer of a through bill of lading, or other document of title embodying an  
 4 undertaking to be performed in part by a person [PERSONS] acting as the issuer's  
 5 agent [AGENTS] or by a performing carrier, [CONNECTING CARRIERS] is  
 6 liable to a person [ANYONE] entitled to recover on the bill or other document for a  
 7 breach by the other person [PERSONS] or the performing [BY A CONNECTING]  
 8 carrier of its obligation under the bill or other document. However [, BUT, TO THE  
 9 EXTENT THAT THE BILL COVERS AN UNDERTAKING TO BE PERFORMED  
 10 OVERSEAS OR IN TERRITORY NOT CONTIGUOUS TO THE CONTINENTAL  
 11 UNITED STATES OR AN UNDERTAKING INCLUDING MATTERS OTHER  
 12 THAN TRANSPORTATION], this liability for breach by the other person or the  
 13 performing carrier may be varied by agreement of the parties, except to the extent  
 14 other law prohibits variation of the liability by agreement.

15 (b) If goods covered by a through bill of lading or other document of title  
 16 embodying an undertaking to be performed in part by a person other than the issuer  
 17 are received by the other person, the [THAT] person is subject, with respect to its own  
 18 [THE PERSON'S] performance while the goods are in its [THE PERSON'S]  
 19 possession, to the obligation of the issuer. The person's obligation is discharged by  
 20 delivery of the goods to another [SUCH] person under the bill or other document, and  
 21 does not include liability for breach by another [SUCH] person or by the issuer.

22 (c) The issuer of a [THE] through bill of lading or other document of title  
 23 described in (a) of this section may recover [,] from the performing  
 24 [CONNECTING] carrier, or other person in possession of the goods when the breach  
 25 of the obligation under the bill [DOCUMENT] occurred, the amount

26 (1) the issuer may be [IS] required to pay to a person [ANYONE]  
 27 entitled to recover on the bill or other document for the breach, as may be evidenced  
 28 by a receipt, judgment, or transcript of judgment; [THAT AMOUNT,] and

29 (2) [THE AMOUNT] of an expense reasonably incurred by the issuer  
 30 [CARRIER] in defending an action commenced [BROUGHT] by a person  
 31 [ANYONE] entitled to recover on the bill or other document for the breach.

1 \* **Sec. 51.** AS 45.07.303 is amended to read:

2 **Sec. 45.07.303. Diversion; reconsignment; change of instructions.** (a)

3 Unless the bill of lading otherwise provides, a [THE] carrier may deliver the goods to  
4 a person or destination other than that stated in the bill or may otherwise dispose of the  
5 goods, **without liability for misdelivery,** on instructions from

6 (1) the holder of a negotiable bill;

7 (2) the consignor on a nonnegotiable bill, **even if the consignee has**  
8 **given** [NOTWITHSTANDING] contrary **instructions** [INSTRUCTION FROM THE  
9 CONSIGNEE];

10 (3) the consignee on a nonnegotiable bill in the absence of contrary  
11 instructions from the consignor, if the goods have arrived at the billed destination or if  
12 the consignee is in possession of the **tangible** bill **or in control of the electronic bill;**  
13 or

14 (4) the consignee on a nonnegotiable bill, if the consignee is entitled as  
15 against the consignor to dispose of **the goods** [THEM].

16 (b) Unless [THE] instructions **described in (a) of this section** are **included in**  
17 [NOTED ON] a negotiable bill of lading, a person to whom the bill is duly negotiated  
18 **may** [CAN] hold the bailee according to the original terms.

19 \* **Sec. 52.** AS 45.07.304 is amended to read:

20 **Sec. 45.07.304. Tangible bills [BILLS] of lading in a set.** (a) Except **as**  
21 [WHERE] customary in **international** [OVERSEAS] transportation, a **tangible** bill of  
22 lading **may** [MUST] not be issued in a set of parts. The issuer is liable for damages  
23 caused by violation of this subsection.

24 (b) If a **tangible** bill of lading is lawfully **issued** [DRAWN] in a set of parts,  
25 each of which **contains an identification code and** is [NUMBERED AND] expressed  
26 to be valid only if the goods have not been delivered against **another** [ANY OTHER]  
27 part, the whole of the parts constitutes one bill.

28 (c) If a **tangible negotiable** bill of lading is lawfully issued in a set of parts  
29 and different parts are negotiated to different persons, the title of the holder to whom  
30 the first due negotiation is made prevails as to both the document **of title** and the  
31 goods even **if** [THOUGH] a later holder may have received the goods from the carrier

1 in good faith and discharged the carrier's obligation by surrendering its  
2 [SURRENDER OF THE LATER HOLDER'S] part.

3 (d) A person who negotiates or transfers a single part of a tangible bill of  
4 lading issued [DRAWN] in a set is liable to holders of that part as if it were the whole  
5 set.

6 (e) The bailee shall [IS OBLIGED TO] deliver in accordance with  
7 AS 45.07.401 - 45.07.404 against the first presented part of a tangible bill of lading  
8 lawfully issued [DRAWN] in a set. Delivery in this manner [THIS DELIVERY]  
9 discharges the bailee's obligation on the whole bill.

10 \* **Sec. 53.** AS 45.07.305(b) is amended to read:

11 (b) Upon request of a person [ANYONE] entitled as against a [THE] carrier  
12 to control the goods while in transit and on surrender of possession or control of an  
13 outstanding bill of lading or other receipt covering the goods, the issuer, subject to  
14 AS 45.07.115, may procure a substitute bill to be issued at a [ANY] place designated  
15 in the request.

16 \* **Sec. 54.** AS 45.07.307 is amended to read:

17 **Sec. 45.07.307. Lien of carrier.** (a) A carrier has a lien on the goods covered  
18 by a bill of lading or on the proceeds of the goods in its possession for charges after  
19 the date of the carrier's [ITS] receipt of the goods for storage or transportation,  
20 including demurrage and terminal charges, and for expenses necessary for  
21 preservation of the goods incident to their transportation or reasonably incurred in  
22 their sale under [PURSUANT TO] law. However, [BUT] against a purchaser for  
23 value of a negotiable bill of lading, a carrier's lien is limited to charges stated in the  
24 bill or the applicable tariffs, or, if no charges are stated, [THEN] to a reasonable  
25 charge.

26 (b) A lien for charges and expenses under (a) of this section on goods that the  
27 carrier was required by law to receive for transportation is effective against the  
28 consignor or a person entitled to the goods unless the carrier had notice that the  
29 consignor lacked authority to subject the goods to the charges and expenses. Another  
30 [ANY OTHER] lien under (a) of this section is effective against the consignor and a  
31 person who permitted the bailor to have control or possession of the goods unless the

1 carrier had notice that the bailor lacked [THE] authority.

2 (c) A carrier loses its [THE] lien on goods that the carrier voluntarily delivers  
3 or unjustifiably refuses to deliver.

4 \* **Sec. 55.** AS 45.07.308(a) is amended to read:

5 (a) A carrier's lien on goods may be enforced by public or private sale of the  
6 goods, in bulk [BLOCK] or in packages [PARCELS], at any time or place, and on  
7 [ANY] terms that are commercially reasonable, after notifying all persons known to  
8 claim an interest in the goods. The [THIS] notification must include a statement of the  
9 amount due, the nature of the proposed sale, and the time and place of any [A] public  
10 sale. The fact that a better price could have been obtained by a sale at a different time  
11 or by [IN] a [DIFFERENT] method different from that selected by the carrier is not  
12 of itself sufficient to establish that the sale was not made in a commercially reasonable  
13 manner. The [IF THE] carrier [EITHER] sells [THE] goods in a commercially  
14 reasonable [THE USUAL] manner if the carrier sells the goods in the usual  
15 manner in a recognized market for them, [OR IF THE CARRIER] sells at the price  
16 current in that [THE] market at the time of the sale, or [IF THE CARRIER HAS]  
17 otherwise sells [SOLD] in conformity with commercially reasonable practices among  
18 dealers in the type of goods sold [, THE CARRIER HAS SOLD IN A  
19 COMMERCIALY REASONABLE MANNER]. A sale of more goods than  
20 apparently necessary to be offered to ensure satisfaction of the obligation is not  
21 commercially reasonable except in cases covered by the preceding sentence.

22 \* **Sec. 56.** AS 45.07.308(b) is amended to read:

23 (b) Before a sale under this section, a person claiming a right in the goods may  
24 pay the amount necessary to satisfy the lien and the reasonable expenses incurred in  
25 complying with [UNDER] this section. In that event, the goods may [MUST] not be  
26 sold [,] but must be retained by the carrier, subject to the terms of the bill of lading  
27 and this chapter.

28 \* **Sec. 57.** AS 45.07.308(c) is amended to read:

29 (c) A [THE] carrier may buy at a public sale under this section.

30 \* **Sec. 58.** AS 45.07.308(d) is amended to read:

31 (d) A purchaser in good faith of goods sold to enforce a carrier's lien takes the

1 goods free of the rights of persons against whom the lien was valid, despite the  
 2 carrier's noncompliance [BY THE CARRIER] with [THE REQUIREMENTS OF]  
 3 this section.

4 \* **Sec. 59.** AS 45.07.308(e) is amended to read:

5 (e) A [THE] carrier may satisfy the carrier's lien from the proceeds of a sale  
 6 under this section, but shall [MUST] hold the balance, if any, for delivery on demand  
 7 to a person to whom the carrier would have been bound to deliver the goods.

8 \* **Sec. 60.** AS 45.07.308(h) is amended to read:

9 (h) A [THE] carrier is liable for damages caused by failure to comply with the  
 10 requirements for sale under this section and, in case of wilful violation, is liable for  
 11 conversion.

12 \* **Sec. 61.** AS 45.07.309 is amended to read:

13 **Sec. 45.07.309. Duty of care; contractual limitation of carrier's liability.** (a)

14 A carrier who issues a bill of lading, whether negotiable or nonnegotiable, shall  
 15 [MUST] exercise the degree of care in relation to the goods that a reasonably careful  
 16 person [MAN] would exercise under similar [LIKE] circumstances. This subsection  
 17 does not affect a statute, regulation, [REPEAL OR CHANGE ANY LAW] or rule of  
 18 law that imposes liability on [UPON] a common carrier for damages not caused by its  
 19 negligence.

20 (b) Damages may be limited by a term in the bill of lading or in a  
 21 transportation agreement [PROVISION] that the carrier's liability may [SHALL]  
 22 not exceed a value stated in the bill or transportation agreement [DOCUMENT] if  
 23 the carrier's rates are dependent on [UPON] value and the consignor [BY THE  
 24 CARRIER'S TARIFF] is afforded an opportunity to declare a higher value and [OR A  
 25 VALUE AS LAWFULLY PROVIDED IN THE TARIFF, OR IF NO TARIFF IS  
 26 FILED] the consignor is [OTHERWISE] advised of this opportunity. However, the [;  
 27 BUT NO SUCH] limitation is not effective with respect to the carrier's liability for  
 28 conversion to its own use.

29 (c) Reasonable provisions as to the time and manner of presenting claims and  
 30 commencing [INSTITUTING] actions based on the shipment may be included in a  
 31 bill of lading or a transportation agreement [TARIFF].

1 \* **Sec. 62.** AS 45.07.401 is amended to read:

2 **Sec. 45.07.401. Irregularities in issue of receipt or bill or conduct of issuer.**

3 The obligations imposed by this chapter on an issuer apply to a document of title **even**  
4 **if** [REGARDLESS OF THE FACT THAT]

5 (1) the document **does** [MAY] not comply with the requirements of  
6 this chapter or **another statute, a** [OF ANY OTHER LAW OR] regulation, **or**  
7 **another rule of law** regarding its **issuance** [ISSUE], form, or content;

8 (2) the issuer [MAY HAVE] violated laws regulating the conduct of  
9 the issuer's business;

10 (3) the goods covered by the document were owned by the bailee  
11 **when** [AT THE TIME] the document was issued; or

12 (4) the person issuing the document **is** [DOES] not **a warehouse but**  
13 **the document** [COME WITHIN THE DEFINITION OF WAREHOUSEMAN IF IT]  
14 purports to be a warehouse receipt.

15 \* **Sec. 63.** AS 45.07.402 is amended to read:

16 **Sec. 45.07.402. Duplicate document of title [RECEIPT OR BILL];**  
17 **overissue. A** [NEITHER A] duplicate **or another** [NOR ANY OTHER] document of  
18 title purporting to cover goods already represented by an outstanding document of the  
19 same issuer **does not confer** [CONFERS] a right in the goods, except as provided in  
20 the case of **tangible** bills **of lading** in a set **of parts**, overissue of documents for  
21 fungible goods, [AND] substitutes for lost, stolen, or destroyed documents, **or**  
22 **substitute documents issued under AS 45.07.115.** **The** [BUT THE] issuer is liable  
23 for damages caused by the issuer's overissue or failure to identify a duplicate  
24 document [AS SUCH] by **a** conspicuous notation [ON ITS FACE].

25 \* **Sec. 64.** AS 45.07.403(a) is amended to read:

26 (a) **A** [THE] bailee **shall** [MUST] deliver the goods to a person entitled under  
27 **a** [THE] document **of title if the person** [WHO] complies with (b) and (c) of this  
28 section, unless and to the extent that the bailee **establishes** [ESTABLISHED] any of  
29 the following:

30 (1) delivery of the goods to a person whose receipt was rightful as  
31 against the claimant;

1 (2) damage to or delay, loss, or destruction of the goods for which the  
2 bailee is not liable;

3 (3) previous sale or other disposition of the goods in lawful  
4 enforcement of a lien or on a warehouse's [WAREHOUSEMAN'S] lawful  
5 termination of storage;

6 (4) the exercise by a seller of its [THE] right to stop delivery under  
7 AS 45.02.705 or by a lessor of its right to stop delivery under AS 45.12.526;

8 (5) a diversion, reconsignment, or other disposition under  
9 AS 45.07.303 [OR TARIFF REGULATING THIS RIGHT];

10 (6) release, satisfaction, or another [ANY OTHER FACT  
11 AFFORDING A] personal defense against the claimant; or

12 (7) another [ANY OTHER] lawful excuse.

13 \* **Sec. 65.** AS 45.07.403(b) is amended to read:

14 (b) A person claiming goods covered by a document of title shall [MUST]  
15 satisfy the bailee's lien if the bailee [SO] requests the person to satisfy the lien or if  
16 the bailee is prohibited by law from delivering the goods until the charges are paid.

17 \* **Sec. 66.** AS 45.07.403(c) is amended to read:

18 (c) Unless the person claiming the goods is a person [ONE] against whom  
19 the document of title does not confer a [CONFERS NO] right under  
20 AS 45.07.503(a),

21 (1) the person claiming under a document shall [MUST] surrender  
22 possession [FOR CANCELLATION] or control of [NOTATION OF PARTIAL  
23 DELIVERIES] an outstanding negotiable document covering the goods for  
24 cancellation or indication of partial deliveries; [,] and

25 (2) the bailee shall [MUST] cancel the document or conspicuously  
26 indicate in [NOTE] the document the partial delivery, [ON THE DOCUMENT] or  
27 the bailee is [BE] liable to a person to whom the document is duly negotiated.

28 \* **Sec. 67.** AS 45.07.404 is amended to read:

29 **Sec. 45.07.404. No liability for good faith delivery under document of title**  
30 **[PURSUANT TO RECEIPT OR BILL].** A bailee who, in good faith, [INCLUDING  
31 OBSERVANCE OF REASONABLE COMMERCIAL STANDARDS,] has received

1 goods and delivered or otherwise disposed of **the goods** [THEM] according to the  
 2 terms of **a** [THE] document of title or under this chapter is not liable for **the goods**  
 3 [THAT DISPOSAL. THIS RULE APPLIES] even **if** [THOUGH] the person

4 **(1)** from whom the bailee received the goods **did not have** [HAD NO]  
 5 authority to procure the document or to dispose of the goods; **or**

6 **(2)** [AND EVEN THOUGH THE PERSON] to whom the bailee  
 7 delivered the goods **did not have** [HAD NO] authority to receive **the goods** [THEM].

8 \* **Sec. 68.** AS 45.07.501 is repealed and reenacted to read:

9 **Sec. 45.07.501. Form of negotiation and requirements of due negotiation.**

10 (a) The following rules apply to a negotiable tangible document of title:

11 (1) if the document's original terms run to the order of a named person,  
 12 the document is negotiated by the named person's endorsement and delivery; after the  
 13 named person's endorsement in blank or to bearer, a person may negotiate the  
 14 document by delivery alone;

15 (2) if the document's original terms run to bearer, it is negotiated by  
 16 delivery alone;

17 (3) if the document's original terms run to the order of a named person  
 18 and it is delivered to the named person, the effect is the same as if the document had  
 19 been negotiated;

20 (4) negotiation of the document after it has been endorsed to a named  
 21 person requires endorsement by the named person and delivery;

22 (5) a document is duly negotiated if it is negotiated in the manner  
 23 stated in this subsection to a holder who purchases it in good faith, without notice of a  
 24 defense against or claim to it on the part of a person, and for value, unless it is  
 25 established that the negotiation is not in the regular course of business or financing or  
 26 involves receiving the document in settlement or payment of a monetary obligation.

27 (b) The following rules apply to a negotiable electronic document of title:

28 (1) if the document's original terms run to the order of a named person  
 29 or to bearer, the document is negotiated by delivery of the document to another  
 30 person; endorsement by the named person is not required to negotiate the document;

31 (2) if the document's original terms run to the order of a named person

1 and the named person has control of the document, the effect is the same as if the  
2 document had been negotiated;

3 (3) a document is duly negotiated if it is negotiated in the manner  
4 stated in this subsection to a holder who purchases it in good faith, without notice of a  
5 defense against or claim to it on the part of a person, and for value, unless it is  
6 established that the negotiation is not in the regular course of business or financing or  
7 involves taking delivery of the document in settlement or payment of a monetary  
8 obligation.

9 (c) Endorsement of a nonnegotiable document of title does not make it  
10 negotiable or add to the transferee's rights.

11 (d) The naming in a negotiable bill of lading of a person to be notified of the  
12 arrival of the goods does not limit the negotiability of the bill or constitute notice to a  
13 purchaser of the bill of an interest of that person in the goods.

14 \* **Sec. 69.** AS 45.07.502 is amended to read:

15 **Sec. 45.07.502. Rights acquired by due negotiation.** (a) Subject to  
16 AS 45.07.205 and 45.07.503 [AS 45.07.503 AND TO THE PROVISIONS OF  
17 AS 45.07.205 ON FUNGIBLE GOODS], a holder to whom a negotiable document of  
18 title has been duly negotiated acquires **by the due negotiation**

19 (1) title to the document;

20 (2) title to the goods;

21 (3) all rights accruing under the law of agency or estoppel, including  
22 rights to goods delivered to the bailee after the document was issued; and

23 (4) the direct obligation of the issuer to hold or deliver the goods  
24 according to the terms of the document free of a defense or claim by the issuer except  
25 **those** [ONE] arising under the terms of the document or under this chapter, **but,** [;] in  
26 the case of a delivery order, the bailee's obligation accrues only upon **the bailee's**  
27 acceptance **of the delivery order,** and the obligation acquired by the holder is that the  
28 issuer and **any** [AN] endorser will procure the acceptance of the bailee.

29 (b) Subject to AS 45.07.503, title and rights [SO] acquired **by due negotiation**  
30 are not defeated by a stoppage of the goods represented by the document **of title** or by  
31 surrender of the goods by the bailee [,] and are not impaired even **if**

1                   (1) [THOUGH] the due negotiation or a prior due negotiation  
2 constituted a breach of duty;

3                   (2) [OR EVEN THOUGH] a person has been deprived of possession  
4 of a negotiable tangible [THE] document or control of a negotiable electronic  
5 document by misrepresentation, fraud, accident, mistake, duress, loss, theft, or  
6 conversion; [,] or

7                   (3) [EVEN THOUGH] a previous sale or other transfer of the goods or  
8 document has been made to a third person.

9 \* **Sec. 70.** AS 45.07.503 is amended to read:

10                   **Sec. 45.07.503. Document of title to goods defeated in certain cases.** (a) A  
11 document of title confers no right in goods against a person who, before issuance of  
12 the document, had a legal interest or a perfected security interest in the goods  
13 [THEM] and who did not [NEITHER]

14                   (1) deliver [DELIVERED] or entrust the goods [ENTRUSTED  
15 THEM] or a document of title covering the goods [THEM] to the bailor or the bailor's  
16 nominee with

17                   (A) actual or apparent authority to ship, store, or sell;

18                   (B) [OR WITH] power to obtain delivery under AS 45.07.403;

19 or

20                   (C) [WITH] power of disposition under AS 45.02.403,  
21 AS 45.12.304(b), 45.12.305(b), AS 45.29.320, 45.29.321(c) [AS 45.02.403  
22 AND AS 45.29.320] or other statute or rule of law; or [NOR]

23                   (2) acquiesce [ACQUIESCED] in the procurement by the bailor or its  
24 [THE BAILOR'S] nominee of a document [OF TITLE].

25                   (b) Title to goods based upon an unaccepted delivery order is subject to the  
26 rights of a person [ANYONE] to whom a negotiable warehouse receipt or bill of  
27 lading covering the goods has been duly negotiated. That [SUCH A] title may be  
28 defeated under AS 45.07.504 to the same extent as the rights of the issuer or a  
29 transferee from the issuer.

30                   (c) Title to goods based upon a bill of lading issued to a freight forwarder is  
31 subject to the rights of a person [ANYONE] to whom a bill issued by the freight

1 forwarder is duly negotiated. **However**, [; BUT] delivery by the carrier in accordance  
 2 with AS 45.07.401 - 45.07.404 under its own bill of lading discharges the carrier's  
 3 obligation to deliver.

4 \* **Sec. 71.** AS 45.07.504 is amended to read:

5 **Sec. 45.07.504. Rights acquired in [THE] absence of due negotiation; effect**  
 6 **of diversion; [SELLER'S] stoppage of delivery.** (a) A transferee of a document **of**  
 7 **title**, whether negotiable or **nonnegotiable** [NOT], to whom the document has been  
 8 delivered but not duly negotiated, acquires the title and rights that the transferor had or  
 9 had actual authority to convey.

10 (b) In the case of a **transfer of a** nonnegotiable document **of title**, until, [(] but  
 11 not after, [)] the bailee receives **notice** [NOTIFICATION] of the transfer, the rights of  
 12 the transferee may be defeated

13 (1) by those creditors of the transferor who could treat the **transfer**  
 14 [SALE] as void under AS 45.02.402 **or AS 45.12.308**;

15 (2) by a buyer from the transferor in ordinary course of business if the  
 16 bailee has delivered the goods to the buyer or received notification of the buyer's  
 17 rights; [OR]

18 (3) **by a lessee from the transferor in ordinary course of business if**  
 19 **the bailee has delivered the goods to the lessee or received notification of the**  
 20 **lessee's rights; or**

21 (4) as against the bailee, by good faith dealings of the bailee with the  
 22 transferor.

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

28 (d) Delivery **of the goods** under a nonnegotiable document **of title** may be  
 29 stopped by a seller under AS 45.02.705 **or a lessor under AS 45.12.526**, [AND]  
 30 subject to the requirement of due notification [SET OUT] in **those sections**  
 31 [AS 45.02.705]. A bailee **who honors** [HONORING] the seller's **or lessor's**

1 instructions is entitled to be indemnified by the seller **or lessor** against a resulting loss  
2 or expense.

3 \* **Sec. 72.** AS 45.07.505 is amended to read:

4 **Sec. 45.07.505. Endorser not [A] guarantor for other parties.** The  
5 endorsement of a **tangible** document of title issued by a bailee does not make the  
6 endorser liable for a default by the bailee or [BY] previous endorsers.

7 \* **Sec. 73.** AS 45.07.506 is amended to read:

8 **Sec. 45.07.506. Delivery without endorsement; right to compel**  
9 **endorsement.** The transferee of a negotiable **tangible** document of title has a  
10 specifically enforceable right to have **its** [THE] transferor supply a necessary  
11 endorsement, but the transfer becomes a negotiation only as of the time the  
12 endorsement is supplied.

13 \* **Sec. 74.** AS 45.07.507 is amended to read:

14 **Sec. 45.07.507. Warranties on negotiation or delivery [TRANSFER] of**  
15 **document of title [RECEIPT OR BILL].** If a person negotiates or **delivers**  
16 [TRANSFERS] a document of title for value, **other** [OTHERWISE] than as a mere  
17 intermediary under AS 45.07.508, [THEN,] unless otherwise agreed, the **transferor,**  
18 **in addition to any warranty made in selling or leasing the goods,** [PERSON]  
19 warrants to **its** [THE] immediate purchaser only **that** [IN ADDITION TO ANY  
20 WARRANTY MADE IN SELLING THE GOODS]

21 (1) [THAT] the document is genuine;

22 (2) [THAT] the **transferor does not have** [PERSON HAS NO]  
23 knowledge of a fact that would impair **the document's** [ITS] validity or worth; and

24 (3) [THAT] the negotiation or **delivery** [TRANSFER] is rightful and  
25 fully effective with respect to the title to the document and the goods it represents.

26 \* **Sec. 75.** AS 45.07.508 is amended to read:

27 **Sec. 45.07.508. Warranties of collecting bank as to documents of title.** A  
28 collecting bank or other intermediary known to be entrusted with documents **of title**  
29 on behalf of another or with collection of a draft or other claim against delivery of  
30 documents warrants by the delivery of the documents only its own good faith and  
31 authority [. THIS RULE APPLIES] even **if** [THOUGH] the **collecting bank or other**

1 intermediary has purchased or made advances against the claim or draft to be  
2 collected.

3 \* **Sec. 76.** AS 45.07.509 is amended to read:

4 **Sec. 45.07.509. Adequate [RECEIPT OR BILL: WHEN ADEQUATE]**  
5 **compliance with commercial contract. Whether [THE QUESTION WHETHER]** a  
6 document **of title** is adequate to fulfill the obligations of a contract for sale **or a**  
7 **contract for lease** or the conditions of a **letter of** credit is **determined** [GOVERNED]  
8 by AS 45.02, [ON SALES AND] AS 45.05, **or AS 45.12** [ON LETTERS OF  
9 CREDIT].

10 \* **Sec. 77.** AS 45.07.601 is repealed and reenacted to read:

11 **Sec. 45.07.601. Lost, stolen, or destroyed documents of title.** (a) If a  
12 document of title is lost, stolen, or destroyed, a court may order delivery of the goods  
13 or issuance of a substitute document, and the bailee may, without liability to any  
14 person, comply with the order. If the document was negotiable, a court may not order  
15 delivery of the goods or issuance of a substitute document without the claimant's  
16 posting security unless the court finds that any person who may suffer loss as a result  
17 of nonsurrender of possession or control of the document is adequately protected  
18 against the loss. If the document was nonnegotiable, the court may require security.

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

26 \* **Sec. 78.** AS 45.07.602 is amended to read:

27 **Sec. 45.07.602. Judicial process against [ATTACHMENT OF] goods**  
28 **covered by [A] negotiable document of title. Unless A [EXCEPT WHERE THE]**  
29 document **of title** was originally issued upon delivery of the goods by a person who  
30 **did not have** [HAD NO] power to dispose of them, **a** [NO] lien **does not attach**  
31 [ATTACHES] by virtue of **a** judicial process to goods in the possession of a bailee for

1 which a negotiable document of title is outstanding unless **possession or control of**  
 2 the document is first surrendered to the bailee or [ITS] negotiation **of the document is**  
 3 enjoined. **The** [, AND THE] bailee may not be compelled to deliver the goods under  
 4 process until **possession or control of** the document is surrendered to the bailee or **to**  
 5 [IMPOUNDED BY] the court. **A purchaser of** [ONE WHO PURCHASES] the  
 6 document for value without notice of the process or injunction takes free of **the** lien  
 7 imposed by judicial process.

8 \* **Sec. 79.** AS 45.07.603 is amended to read:

9 **Sec. 45.07.603. Conflicting claims; interpleader.** If more than one person  
 10 claims title **to** or possession of the goods, the bailee is excused from delivery until the  
 11 bailee has [HAD] a reasonable time to ascertain the validity of the adverse claims or to  
 12 **commence** [BRING] an action **for interpleader. The bailee** [TO COMPEL ALL  
 13 CLAIMANTS TO INTERPLEAD AND] may **assert an** [COMPEL THIS]  
 14 interpleader [,] either in defending an action for nondelivery of the goods or by  
 15 original action [, WHICHEVER IS APPROPRIATE].

16 \* **Sec. 80.** AS 45.08.103 is amended by adding a new subsection to read:

17 (h) A document of title is not a financial asset unless AS 45.08.102(a)(10)(C)  
 18 applies.

19 \* **Sec. 81.** AS 45.12.103(a)(1) is amended to read:

20 (1) "buyer in ordinary course of business" means a person who, in  
 21 good faith and without knowledge that the sale to that person is in violation of the  
 22 ownership rights or security interest or leasehold interest of a third party in the goods,  
 23 buys in ordinary course from a person in the business of selling goods of that kind, but  
 24 does not include a pawnbroker; "buying" may be for cash or by exchange of other  
 25 property or on secured or unsecured credit and includes **acquiring** [RECEIVING]  
 26 goods or documents of title under a preexisting contract for sale, but does not include  
 27 a transfer in bulk or as security for or in total or partial satisfaction of a money debt;

28 \* **Sec. 82.** AS 45.12.103(a)(15) is amended to read:

29 (15) "lessee in ordinary course of business" means a person who, in  
 30 good faith and without knowledge that the lease to that person is in violation of the  
 31 ownership rights or security interest or leasehold interest of a third party in the goods,

1 leases in ordinary course from a person in the business of selling or leasing goods of  
 2 that kind, but does not include a pawnbroker; "leasing" may be for cash or by  
 3 exchange of other property or on secured or unsecured credit and includes **acquiring**  
 4 [RECEIVING] goods or documents of title under a preexisting lease contract, but does  
 5 not include a transfer in bulk or as security for or in total or partial satisfaction of a  
 6 money debt;

7 \* **Sec. 83.** AS 45.12.304(b) is amended to read:

8 (b) A subsequent lessee in [THE] ordinary course of business from a lessor  
 9 who is a merchant dealing in goods of that kind to whom the goods were entrusted by  
 10 the existing lessee of that lessor before the interest of the subsequent lessee became  
 11 enforceable against that lessor obtains, to the extent of the leasehold interest  
 12 transferred, all of that lessor's and the existing lessee's rights to the goods, and takes  
 13 free of the existing lease contract.

14 \* **Sec. 84.** AS 45.12.305(b) is amended to read:

15 (b) A buyer in [THE] ordinary course of business or a sublessee in [THE]  
 16 ordinary course of business from a lessee who is a merchant dealing in goods of that  
 17 kind to whom the goods were entrusted by the lessor obtains, to the extent of the  
 18 interest transferred, all of the lessor's and lessee's rights to the goods, and takes free of  
 19 the existing lease contract.

20 \* **Sec. 85.** AS 45.12.310(d) is amended to read:

21 (d) The interest of a lessor or a lessee under a lease contract described in (b) or  
 22 (c) of this section is subordinate to the interest of

23 (1) a buyer in [THE] ordinary course of business or a lessee in [THE]  
 24 ordinary course of business of **an** [ANY] interest in the whole acquired after the goods  
 25 became accessions; or

26 (2) a creditor with a security interest in the whole perfected before the  
 27 lease contract was made to the extent that the creditor makes subsequent advances  
 28 without knowledge of the lease contract.

29 \* **Sec. 86.** AS 45.12.501(d) is amended to read:

30 (d) Except as otherwise provided in **AS 45.01.305(a)** [AS 45.01.106(a)] or this  
 31 chapter or the lease agreement, the rights and remedies referred to in (b) and (c) of this

1 section are cumulative.

2 \* **Sec. 87.** AS 45.12.514(b) is amended to read:

3 (b) A lessee's failure to reserve rights when paying rent or other consideration  
4 against documents precludes recovery of the payment for defects apparent **in** [ON  
5 THE FACE OF] the documents.

6 \* **Sec. 88.** AS 45.12.518(b) is amended to read:

7 (b) Except as otherwise provided under AS 45.12.504 with respect to damages  
8 liquidated in the lease agreement or otherwise determined under agreement of the  
9 parties under **AS 45.01.302** [AS 45.01.102(c)] and AS 45.12.503, if a lessee's cover is  
10 by lease agreement substantially similar to the original lease agreement and the new  
11 lease agreement is made in good faith and in a commercially reasonable manner, the  
12 lessee may recover from the lessor as damages

13 (1) the present value, as of the date of the commencement of the term  
14 of the new lease agreement, of the rent under the new lease agreement applicable to  
15 that period of the new lease term that is comparable to the then remaining term of the  
16 original lease agreement minus the present value as of the same date of the total rent  
17 for the then remaining lease term of the original lease agreement; and

18 (2) incidental or consequential damages, less expenses saved in  
19 consequence of the lessor's default.

20 \* **Sec. 89.** AS 45.12.519(a) is amended to read:

21 (a) Except as otherwise provided under AS 45.12.504 with respect to damages  
22 liquidated in the lease agreement or otherwise determined under agreement of the  
23 parties under **AS 45.01.302** [AS 45.01.102(c)] and AS 45.12.503, if a lessee elects not  
24 to cover or a lessee elects to cover and the cover is by lease agreement that for any  
25 reason does not qualify for treatment under AS 45.12.518(b), or is by purchase or  
26 otherwise, the measure of damages for nondelivery or repudiation by the lessor or for  
27 rejection or revocation of acceptance by the lessee is the present value, as of the date  
28 of the default, of the then market rent minus the present value as of the same date of  
29 the original rent, computed for the remaining lease term of the original lease  
30 agreement, together with incidental and consequential damages, less expenses saved in  
31 consequence of the lessor's default.

1 \* **Sec. 90.** AS 45.12.526(b) is amended to read:

2 (b) In pursuing its remedies under (a) of this section, the lessor may stop  
3 delivery until

4 (1) receipt of the goods by the lessee;

5 (2) acknowledgment to the lessee by a bailee of the goods, except a  
6 carrier, that the bailee holds the goods for the lessee; or

7 (3) [SUCH] an acknowledgment to the lessee **under (1) or (2) of this**  
8 **subsection** by a carrier **by** [VIA] reshipment or as **a warehouse**  
9 [WAREHOUSEMAN].

10 \* **Sec. 91.** AS 45.12.527(b) is amended to read:

11 (b) Except as otherwise provided with respect to damages liquidated in the  
12 lease agreement under AS 45.12.504 or otherwise determined under agreement of the  
13 parties under **AS 45.01.302** [AS 45.01.102(c)] and AS 45.12.503, if the disposition is  
14 by lease agreement substantially similar to the original lease agreement and the new  
15 lease agreement is made in good faith and in a commercially reasonable manner, the  
16 lessor may recover from the lessee as damages

17 (1) accrued and unpaid rent as of the date of the commencement of the  
18 term of the new lease agreement;

19 (2) the present value, as of the same date, of the total rent for the then  
20 remaining lease term of the original lease agreement minus the present value, as of the  
21 same date, of the rent under the new lease agreement applicable to that period of the  
22 new lease term that is comparable to the then remaining term of the original lease  
23 agreement; and

24 (3) [ANY] incidental damages allowed under AS 45.12.530, less  
25 expenses saved in consequence of the lessee's default.

26 \* **Sec. 92.** AS 45.12.528(a) is amended to read:

27 (a) Except as otherwise provided with respect to damages liquidated in the  
28 lease agreement under AS 45.12.504 or otherwise determined under agreement of the  
29 parties under **AS 45.01.302** [AS 45.01.102(c)] and AS 45.12.503, if a lessor elects to  
30 retain the goods or a lessor elects to dispose of the goods and the disposition is by  
31 lease agreement that for any reason does not qualify for treatment under

1 AS 45.12.527(b), or is by sale or otherwise, the lessor may recover from the lessee as  
 2 damages for a default described in AS 45.12.523(a) or (c)(1), or, if agreed, for other  
 3 default of the lessee

4 (1) accrued and unpaid rent as of the date of default if the lessee has  
 5 never taken possession of the goods, or, if the lessee has taken possession of the  
 6 goods, as of the date the lessor repossesses the goods or an earlier date on which the  
 7 lessee makes a tender of the goods to the lessor;

8 (2) the present value as of the date determined under (1) of this  
 9 subsection of the total rent for the then remaining lease term of the original lease  
 10 agreement minus the present value as of the same date of the market rent at the place  
 11 where the goods are located, computed for the same lease term; and

12 (3) [ANY] incidental damages allowed under AS 45.12.530, less  
 13 expenses saved in consequence of the lessee's default.

14 \* **Sec. 93.** AS 45.14.105(a)(7) is amended to read:

15 (7) "prove," with respect to a fact, means to meet the burden of  
 16 establishing the fact; "burden of establishing" has the meaning given in **AS 45.01.211**  
 17 [AS 45.01.201].

18 \* **Sec. 94.** AS 45.14.106(a) is amended to read:

19 (a) The time of receipt of a payment order or communication canceling or  
 20 amending a payment order is determined by the rules applicable to receipt of a notice  
 21 stated in **AS 45.01.212** [AS 45.01.201(27)]. A receiving bank may fix a cut-off time or  
 22 times on a funds-transfer business day for the receipt and processing of payment  
 23 orders and communications **cancelling** [CANCELING] or amending payment orders.  
 24 Different cut-off times may apply to payment orders, cancellations, or amendments, or  
 25 to different categories of payment orders, cancellations, or amendments. A cut-off  
 26 time may apply to senders generally, or different cut-off times may apply to different  
 27 senders or categories of payment orders. If a payment order or communication  
 28 **cancelling** [CANCELING] or amending a payment order is received after the close of  
 29 a funds-transfer business day or after the appropriate cut-off time on a funds-transfer  
 30 business day, the receiving bank may treat the payment order or communication as  
 31 received at the opening of the next funds-transfer business day.

1 \* **Sec. 95.** AS 45.14.204(b) is amended to read:

2 (b) Reasonable time under (a) of this section may be fixed by agreement as  
3 stated in **AS 45.01.302(b)** [AS 45.01.204(a)], but the obligation of a receiving bank to  
4 refund payment as stated in (a) of this section may not otherwise be varied by  
5 agreement.

6 \* **Sec. 96.** AS 45.29.102(a)(59) is amended to read:

7 (59) "issuer," with respect to a

8 (A) letter of credit or letter-of-credit right, has the meaning  
9 given in AS 45.05.102(a);

10 (B) security, has the meaning given in AS 45.08.201;

11 **(C) document of title, has the meaning given in**  
12 **AS 45.07.112;**

13 \* **Sec. 97.** AS 45.29.102(a) is amended by adding a new paragraph to read:

14 (104) "control" has the meaning given in AS 45.07.116.

15 \* **Sec. 98.** AS 45.29.203(b) is amended to read:

16 (b) Except as otherwise provided in (c) - (i) of this section, a security interest  
17 is enforceable against the debtor and third parties with respect to the collateral only if

18 (1) value has been given;

19 (2) the debtor has rights in the collateral or the power to transfer rights  
20 in the collateral to a secured party; and

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

22 (A) the debtor has authenticated a security agreement that  
23 provides a description of the collateral and, if the security interest covers  
24 timber to be cut, a description of the land concerned;

25 (B) the collateral is not a certificated security and is in the  
26 possession of the secured party under AS 45.29.313 under the debtor's security  
27 agreement;

28 (C) the collateral is a certificated security in registered form,  
29 and the security certificate has been delivered to the secured party under  
30 AS 45.08.301 under the debtor's security agreement; or

31 (D) the collateral is deposit accounts, electronic chattel paper,

1 investment property, [OR] letter-of-credit rights, **or electronic documents,**  
 2 and the secured party has control under **AS 45.07.116,** AS 45.29.104,  
 3 45.29.105, 45.29.106, or 45.29.107 under the debtor's security agreement.

4 \* **Sec. 99.** AS 45.29.207(c) is amended to read:

5 (c) Except as otherwise provided in (d) of this section, a secured party having  
 6 possession of collateral or control of collateral under **AS 45.07.116,** AS 45.29.104,  
 7 45.29.105, 45.29.106, or 45.29.107

8 (1) may hold as additional security any proceeds, except money or  
 9 funds, received from the collateral;

10 (2) shall apply money or funds received from the collateral to reduce  
 11 the secured obligation unless remitted to the debtor; and

12 (3) may create a security interest in the collateral.

13 \* **Sec. 100.** AS 45.29.208(b) is amended to read:

14 (b) Within 10 days after receiving an authenticated demand by the debtor, a  
 15 secured party

16 (1) having control of a deposit account under AS 45.29.104(a)(2) shall  
 17 send to the bank with which the deposit account is maintained an authenticated  
 18 statement that releases the bank from further obligation to comply with instructions  
 19 originated by the secured party;

20 (2) having control of a deposit account under AS 45.29.104(a)(3) shall

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

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

25 (3) other than a buyer, having control of electronic chattel paper under  
 26 AS 45.29.105 shall

27 (A) communicate the authoritative copy of the electronic  
 28 chattel paper to the debtor or its designated custodian;

29 (B) if the debtor designates a custodian that is the designated  
 30 custodian with which the authoritative copy of the electronic chattel paper is  
 31 maintained for the secured party, communicate to the custodian an

1 authenticated record releasing the designated custodian from further obligation  
 2 to comply with instructions originated by the secured party and instructing the  
 3 custodian to comply with instructions originated by the debtor; and

4 (C) take appropriate action to enable the debtor or its  
 5 designated custodian to make copies of or revisions to the authoritative copy  
 6 that add or change an identified assignee of the authoritative copy without the  
 7 consent of the secured party;

8 (4) having control of investment property under AS 45.08.106(d)(2) or  
 9 AS 45.29.106(b) shall send to the securities intermediary or commodity intermediary  
 10 with which the security entitlement or commodity contract is maintained an  
 11 authenticated record that releases the securities intermediary or commodity  
 12 intermediary from further obligation to comply with entitlement orders or directions  
 13 originated by the secured party; [AND]

14 (5) having control of a letter-of-credit right under AS 45.29.107 shall  
 15 send to each person having an unfulfilled obligation to pay or deliver proceeds of the  
 16 letter of credit to the secured party an authenticated release from further obligation to  
 17 pay or deliver proceeds of the letter of credit to the secured party; **and**

18 **(6) having control of an electronic document shall**

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

21 **(B) if the debtor designates a custodian who is the**  
 22 **designated custodian with whom the authoritative copy of the electronic**  
 23 **document is maintained for the secured party, communicate to the**  
 24 **custodian an authenticated record releasing the designated custodian from**  
 25 **further obligation to comply with instructions originated by the secured**  
 26 **party and instructing the custodian to comply with instructions originated**  
 27 **by the debtor; and**

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

1 \* **Sec. 101.** AS 45.29.301 is amended to read:

2 **Sec. 45.29.301. Law governing perfection and priority of security interests.**

3 Except as otherwise provided in AS 45.29.303 - 45.29.306, the following rules  
4 determine the law governing perfection, the effect of perfection or nonperfection, and  
5 the priority of a security interest in collateral:

6 (1) except as otherwise provided in this section, while a debtor is  
7 located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect  
8 of perfection or nonperfection, and the priority of a security interest in collateral;

9 (2) while collateral is located in a jurisdiction, the local law of that  
10 jurisdiction governs perfection, the effect of perfection or nonperfection, and the  
11 priority of a possessory security interest in that collateral;

12 (3) except as otherwise provided in (4) of this section, while **tangible**  
13 negotiable documents, goods, instruments, money, or tangible chattel paper is located  
14 in a jurisdiction, the local law of that jurisdiction governs

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

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

18 (C) the effect of perfection or nonperfection and the priority of  
19 a nonpossessory security interest in the collateral;

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

23 \* **Sec. 102.** AS 45.29.310(b) is amended to read:

24 (b) The filing of a financing statement is not necessary to perfect a security  
25 interest

26 (1) that is perfected under AS 45.29.308(d), (e), (f), or (g);

27 (2) that is perfected under AS 45.29.309 when it attaches;

28 (3) in property subject to a statute, regulation, or treaty described in  
29 AS 45.29.311(a);

30 (4) in goods in possession of a bailee that is perfected under  
31 AS 45.29.312(d)(1) or (2);

1 (5) in certificated securities, documents, goods, or instruments that is  
2 perfected without filing, **control**, or possession under AS 45.29.312(e), (f), or (g);

3 (6) in collateral in the secured party's possession under AS 45.29.313;

4 (7) in a certificated security that is perfected by delivery of the security  
5 certificate to the secured party under AS 45.29.313;

6 (8) in deposit accounts, electronic chattel paper, **electronic**  
7 **documents**, investment property, or letter-of-credit rights that is perfected by control  
8 under AS 45.29.314;

9 (9) in proceeds that is perfected under AS 45.29.315; or

10 (10) that is perfected under AS 45.29.316.

11 \* **Sec. 103.** AS 45.29.312(e) is amended to read:

12 (e) A security interest in certificated securities, negotiable documents, or  
13 instruments is perfected without filing or the taking of possession **or control** for a  
14 period of 20 days from the time the security interest attaches to the extent that it arises  
15 for new value given under an authenticated security agreement.

16 \* **Sec. 104.** AS 45.29.313(a) is amended to read:

17 (a) Except as otherwise provided in (b) of this section, a secured party may  
18 perfect a security interest in **tangible** negotiable documents, goods, instruments,  
19 money, or tangible chattel paper by taking possession of the collateral. A secured party  
20 may perfect a security interest in certificated securities by taking delivery of the  
21 certificated securities under AS 45.08.301.

22 \* **Sec. 105.** AS 45.29.314(a) is amended to read:

23 (a) A security interest in deposit accounts, electronic chattel paper, investment  
24 property, [OR] letter-of-credit rights, or **electronic documents** may be perfected by  
25 control of the collateral under **AS 45.07.116**, AS 45.29.104, 45.29.105, 45.29.106, or  
26 45.29.107.

27 \* **Sec. 106.** AS 45.29.314(b) is amended to read:

28 (b) A security interest in deposit accounts, electronic chattel paper, [OR]  
29 letter-of-credit rights, **or electronic documents** is perfected by control under  
30 **AS 45.07.116**, AS 45.29.104, 45.29.105, or 45.29.107 when the secured party obtains  
31 control and remains perfected by control only while the secured party retains control.

1 \* **Sec. 107.** AS 45.29.317(b) is amended to read:

2 (b) Except as otherwise provided in (e) of this section, a buyer, other than a  
3 secured party, of tangible chattel paper, **tangible** documents, goods, instruments, or a  
4 security certificate takes free of a security interest or agricultural lien if the buyer  
5 gives value and receives delivery of the collateral without knowledge of the security  
6 interest or agricultural lien and before it is perfected.

7 \* **Sec. 108.** AS 45.29.317(d) is amended to read:

8 (d) A licensee of a general intangible or a buyer, other than a secured party, of  
9 accounts, electronic chattel paper, **electronic documents**, general intangibles, or  
10 investment property other than a certificated security takes free of a security interest if  
11 the licensee or buyer gives value without knowledge of the security interest and before  
12 it is perfected.

13 \* **Sec. 109.** AS 45.29.338 is amended to read:

14 **Sec. 45.29.338. Priority of security interest or agricultural lien perfected**  
15 **by filed financing statement providing certain incorrect information.** If a security  
16 interest or agricultural lien is perfected by a filed financing statement providing  
17 information described in AS 45.29.516(b)(5) that is incorrect at the time the financing  
18 statement is filed,

19 (1) the security interest or agricultural lien is subordinate to a  
20 conflicting perfected security interest in the collateral to the extent that the holder of  
21 the conflicting security interest gives value in reasonable reliance upon the incorrect  
22 information; and

23 (2) a purchaser, other than a secured party, of the collateral takes free  
24 of the security interest or agricultural lien to the extent that, in reasonable reliance  
25 upon the incorrect information, the purchaser gives value and, in the case of **tangible**  
26 chattel paper, **tangible** documents, goods, instruments, or a security certificate,  
27 receives delivery of the collateral.

28 \* **Sec. 110.** AS 45.29.601(b) is amended to read:

29 (b) A secured party in possession of collateral or control of collateral under  
30 **AS 45.07.116**, AS 45.29.104, 45.29.105, 45.29.106, or 45.29.107 has the rights and  
31 duties provided in AS 45.29.207.

1 \* **Sec. 111.** AS 45.35.099(4) is amended to read:

2 (4) "lease-purchase agreement"

3 (A) means an agreement for the use of personal property  
4 primarily for personal, family, or household purposes if the agreement is for an  
5 initial period of four months or less, is automatically renewable with each  
6 payment after the initial period, does not obligate or require the consumer to  
7 continue leasing or using the property beyond the initial period, and permits  
8 the consumer to become the owner of the property;

9 (B) does not include

10 (i) an agreement primarily for commercial or  
11 agricultural purposes;

12 (ii) a lease or bailment of personal property if the lease  
13 or bailment is incidental to the lease of real property and provides that  
14 the consumer does not have an option to purchase the leased personal  
15 property;

16 (iii) a lease of a motor vehicle;

17 (iv) a security interest as defined under **AS 45.01.211**  
18 [AS 45.01.201];

19 (v) a retail installment transaction under AS 45.10;

20 (vi) a lease under AS 45.12;

21 \* **Sec. 112.** AS 45.65.250(4) is amended to read:

22 (4) "creditor" has the meaning given in **AS 45.01.211** [AS 45.01.201];

23 \* **Sec. 113.** AS 45.01.101, 45.01.102, 45.01.103, 45.01.104, 45.01.105, 45.01.106,  
24 45.01.107, 45.01.108, 45.01.109, 45.01.201, 45.01.202, 45.01.203, 45.01.204, 45.01.205,  
25 45.01.206, 45.01.207, 45.01.208; AS 45.02.103(a)(2), 45.02.208; AS 45.03.103(a)(4);  
26 AS 45.04.104(c)(7); AS 45.07.101, 45.07.102, 45.07.103, 45.07.104, 45.07.105, 45.07.403(d),  
27 45.07.650; AS 45.08.102(a)(11); AS 45.12.103(c)(9), 45.12.207; AS 45.14.105(a)(6); and  
28 AS 45.29.102(a)(51) are repealed.

29 \* **Sec. 114.** The uncoded law of the State of Alaska is amended by adding a new section  
30 to read:

31 **INDIRECT COURT RULE CHANGES.** (a) The provisions of AS 45.01.303(g),

1 enacted by sec. 9 of this Act, have the effect of amending Rule 403, Alaska Rules of  
2 Evidence, by requiring the exclusion of certain relevant evidence relating to usage of trade  
3 unless certain conditions are met.

4 (b) The provisions of AS 45.01.307, enacted by sec. 9 of this Act, have the effect of  
5 amending Rule 902, Alaska Rules of Evidence, by establishing the authenticity and stated  
6 facts of certain documents.

7 \* **Sec. 115.** The uncodified law of the State of Alaska is amended by adding a new section  
8 to read:

9 APPLICABILITY. (a) This Act applies to a document of title that is issued or a  
10 bailment that arises on or after the effective date of this Act. This Act does not apply to a  
11 document of title that is issued or a bailment that arises before the effective date of this Act  
12 even if the document of title or bailment would be subject to this Act if the document of title  
13 was issued or the bailment arose on or after the effective date of this Act.

14 (b) This Act does not apply to a right of action that has accrued before the effective  
15 date of this Act.

16 \* **Sec. 116.** The uncodified law of the State of Alaska is amended by adding a new section  
17 to read:

18 SAVING CLAUSE. A document of title issued or a bailment that arises before the  
19 effective date of this Act and the rights, obligations, and interests flowing from that document  
20 or bailment are governed by a statute amended or repealed by this Act as if the amendment or  
21 repeal had not occurred and may be terminated, completed, consummated, or enforced under  
22 that statute.

23 \* **Sec. 117.** The uncodified law of the State of Alaska is amended by adding a new section  
24 to read:

25 REVISOR'S INSTRUCTIONS. The revisor of statutes is instructed to change the  
26 catch line of

27 (1) AS 45.07.210 from "Enforcement of warehouseman's lien" to  
28 "Enforcement of warehouse's lien"; and

29 (2) AS 45.07.403 from "Obligation of warehouseman or carrier to deliver;  
30 excuse" to "Obligation of bailee to deliver; excuse."

31 \* **Sec. 118.** The uncodified law of the State of Alaska is amended by adding a new section

1 to read:

2           CONDITIONAL EFFECT. AS 45.01.303(g), enacted by sec. 9 of this Act, and  
3 AS 45.01.307, enacted by sec. 9 of this Act, take effect only if sec. 114 of this Act receives  
4 the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the  
5 State of Alaska.

6       \* **Sec. 119.** This Act takes effect January 1, 2010.